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PARLIAMENTARY
ELECTIONS ACT,

1883.

H. HOBHOUSE

5/-

[October, 1883.]

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THE
PARLIAMENTARY ELECTIONS
(CORRUPT AND ILLEGAL PRACTICES)
ACT, 1883.

THE
PARLIAMENTARY ELECTIONS
(CORRUPT AND ILLEGAL PRACTICES)
ACT, 1883.

EDITED

*WITH AN INTRODUCTION AND FULL EXPLANATORY
AND LEGAL NOTES,*

BY

HENRY HOBHOUSE, M.A.,
OF LINCOLN'S INN, BARRISTER-AT-LAW.

TOGETHER WITH

TABLES OF THE LEGAL MAXIMUM EXPENDITURE FOR
ALL CONSTITUENCIES;

AN APPENDIX OF ELECTION ACTS;

AND

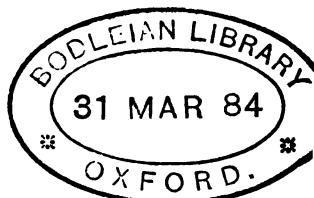
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1883.



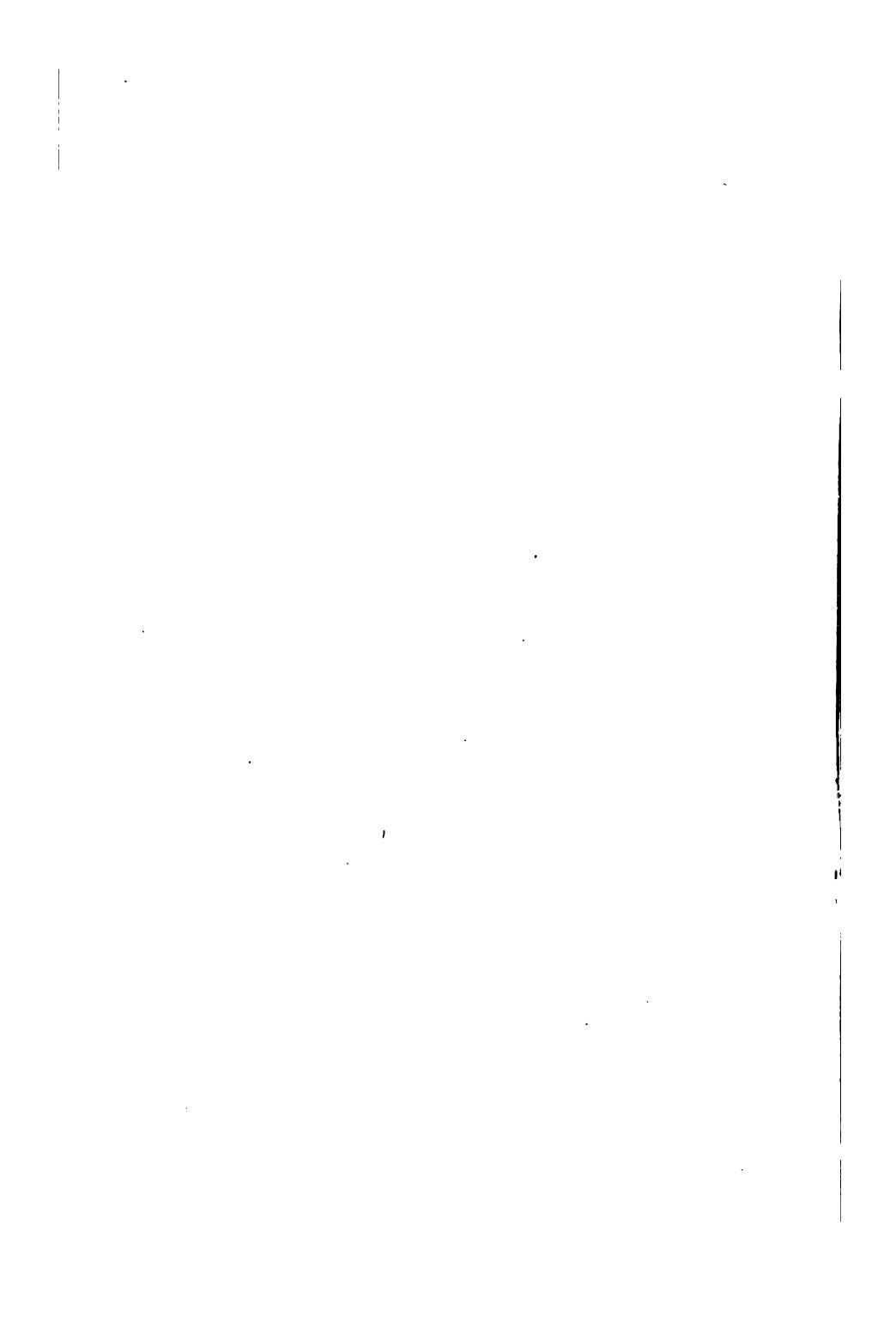
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Dedicated
TO
SIR HENRY JAMES, Q.C., M.P.,

HER MAJESTY'S ATTORNEY-GENERAL,

THE PRINCIPAL AUTHOR OF THE NEW PARLIAMENTARY
ELECTIONS ACT,

WHOSE GREAT TACT, ABILITY, AND PATIENCE WERE NEVER MORE
CONSPIQUIOUSLY SHewn THAN IN HIS CONDUCT OF THAT
MEASURE THROUGH THE HOUSE OF COMMONS
(JUNE 4—AUGUST 11, 1988).



PREFACE.

THIS little work is published in order to supply all those interested in elections at the earliest moment with a manual of the new election law. The reasons which led to the framing of the Act of 1888, and its principles and leading provisions are sketched in the Introduction, while its numerous and elaborate details are explained at full with references in the Notes accompanying the sections.

The editor trusts that, having had the advantage of assisting the Parliamentary Counsel's Office in the drafting of the Bill, and having followed all the discussions in Parliament, he has not (so far as the limits of such a work allowed) omitted any explanation which would help to elucidate the working of the new measure.

Tables of the maximum expenditure which will henceforward be legal in the various constituencies are added, and an Appendix of the Corrupt Practices Prevention and

other Election Acts necessary to be referred to is annexed.

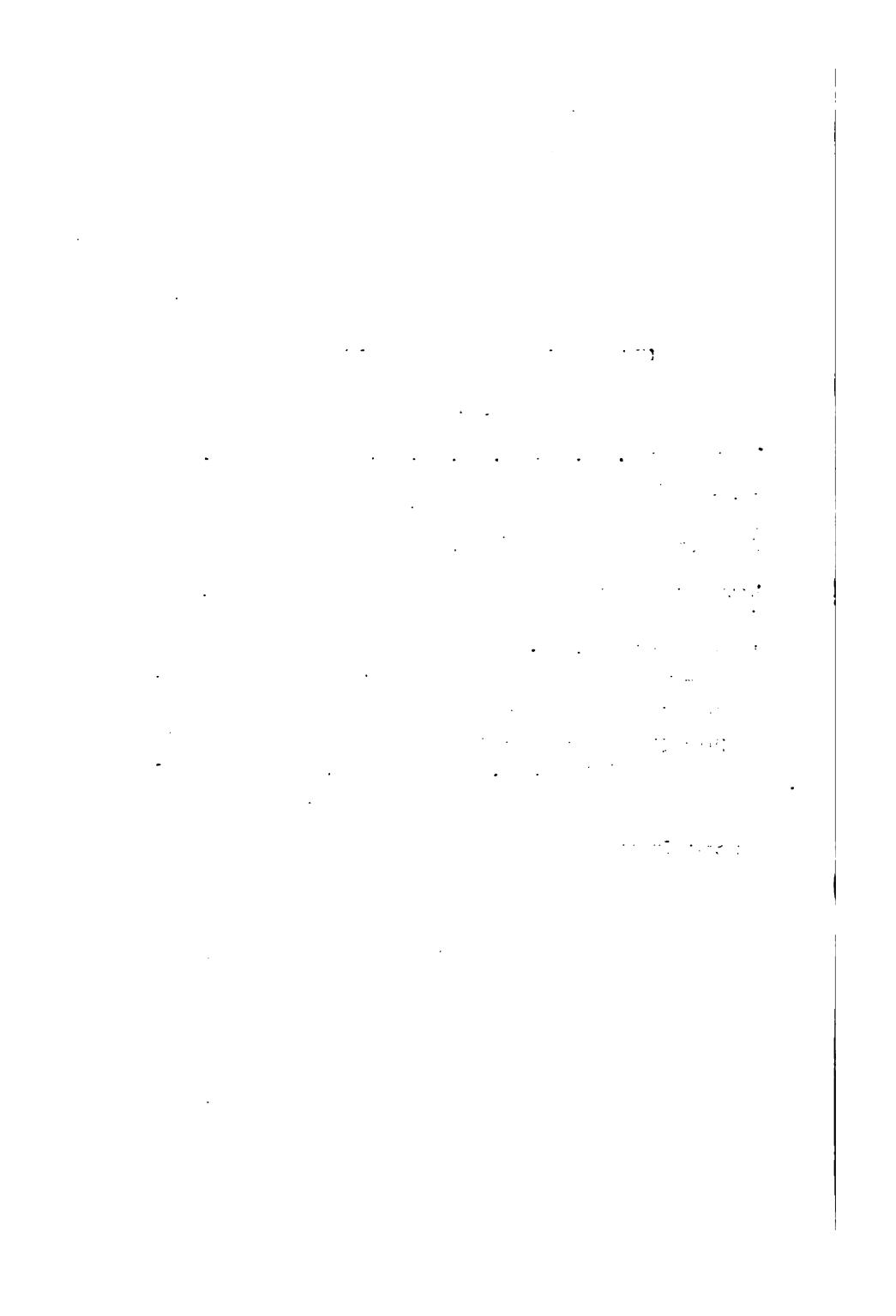
The new Act comes into force on the 15th of October, 1883, and will apply to all Parliamentary Elections taking place on and after that date. Its important effect on Municipal Elections is noticed separately (p. 195).

H. H.

2, MITRE COURT BUILDINGS, TEMPLE,
August, 1883

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PARLIAMENTARY ELECTIONS

(CORRUPT AND ILLEGAL PRACTICES)

ACT, 1883.

INTRODUCTION.

PRIOR to the General Election of 1880 there were Introdn. those who hoped and believed that Corrupt Practices ^{The General Election of 1880.} at Elections were decreasing. These hopes were based upon the growth of the constituencies and their increased political intelligence, and also upon the operation of the Ballot Act. The disclosures following the General Election proved to the most sanguine that this belief was an error. Corrupt practices were found to be more prevalent than ever. If in olden times larger aggregate sums were expended in bribery and treating, never probably had so many persons been bribed and treated as at the General Election of 1880.

After that election nineteen petitions against returns ^{Extent of corrupt practices.} on the ground of corrupt practices were presented. In eight instances the Judges reported that those practices had extensively prevailed, and in respect of seven of

Introdn. these (a) the reports of the Commissioners appointed under the Act of 1852 demonstrated the alarming extent to which corruption of all kinds had grown (b). It was also well known that these disclosures were but mere instances of what had occurred in numerous other constituencies so corrupt that no one dared to petition against the return of the candidates at the head of the poll. A most serious feature in the Commissioners' Reports was the proof they afforded that bribery was regarded as a meritorious not as a disgraceful act. Thirty magistrates were reported as guilty of corrupt practices and removed from the Commission of the Peace by the Lord Chancellor. Mayors, aldermen, town-councillors, solicitors, the agents of the candidates, and others of a like class were found to have dealt with bribery as if it were a part of the necessary machinery for conducting an election. Worst of all, some of these persons had actually attained municipal honours, not only after they had committed these practices, but even after their misdeeds had been exposed by public inquiry.

Extravagant expenditure. The Reports also showed, and a Parliamentary Re-

(a) Boston, Canterbury, Chester, Gloucester, Macclesfield, Oxford, and Sandwich. See Parliamentary Papers, 1881, Nos. 2775—2853.

(b) Thus at Sandwich, with 2,000 electors, 1,133 persons were scheduled either as bribers or bribed. At Gloucester, where 4,904 persons voted, 270 were found to be bribers, and 2,750 bribed. At Boston, with 3,000 electors, 1,200 persons were colourably employed. At Chester 100 persons were treated on one occasion, 90 on another, &c.

turn (*a*) furnished still more conclusive proof, that election expenses were extravagant even to absurdity, and moreover were on the increase. The lowest estimate of the expenditure during the General Election of 1880 amounts to the enormous sum of two and a half millions (*b*). With another Reform Bill in view, the prospects of future elections were indeed alarming. There was good reason to fear that, if any measure were passed substantially increasing the numbers of electors, and the present system of conducting elections were allowed to continue, few men would be able to bear the expense of an ordinary contest.

The necessity for some change was self-evident. Public opinion insisted that the subject should be dealt with, and the evil encountered. But the same demand had been made often before, and legislation against corrupt practices had followed that demand. Yet hitherto all such efforts had failed. It was clear that the objects sought could only be attained by a radical reform of the system on which Parliamentary Elections had hitherto been conducted. The task was no easy one, yet the Government at once undertook it. The Queen's Speech of the 6th of January, 1881, announced that a measure "for the repression of corrupt practices" would

A radical
reform
needed.

Introduction of the
Corrupt
Practices
Bill.

(*a*) No. 382, 1880, Session 2.

(*b*) The necessary official charges only formed about one-twentieth (£133,000) of this enormous expenditure.

Introdn. be submitted to Parliament, and on the following day the Attorney-General (Sir Henry James), in forcible and eloquent terms, moved for leave to introduce his Bill. His proposals (severe as they seemed) were received with general approval and sympathy, both inside and outside the House of Commons, at a time when members and constituents alike were ashamed of the excesses so recently brought to light. It is true that the two and a half years' delay that intervened between the introduction of the Bill and its finally becoming law (a delay caused by the necessities of Irish legislation (*a*)), sufficed very considerably to cool the enthusiasm of Parliament and the public. Yet enough desire for reform remained to carry in July 1883 the Bill of January 1881, modified indeed in detail, but with its principles intact and its main provisions unaltered.

Principles
of the new
Act.

The measure, which has now become the Parliamentary Elections Act of 1883, was in its conception pervaded by two principles. The first was to strike hard and home at corrupt practices; the second was to prohibit by positive legislation any expenditure in the conduct of an election which was not absolutely necessary.

(*a*) In the Session of 1881, everything was postponed to the Irish Land Law Bill. In May, 1882, just as the Corrupt Practices Bill had begun to make progress through Committee, the Dublin murders again brought Irish legislation to the front for the rest of the Session.

Bribery, undue influence, and personation, had long **Introdn.**
 been crimes for which a man could be fined and im-
 prisoned. Treating was now added to the same class of
 offences, and the punishment for all rendered more
 deterrent by a liability to hard labour (*a*). I. Repression
of corrupt
practices.

But mere severity of punishment was not considered Detection
made easier. enough. The probability of detection had to be increased, and the disgrace of civil disabilities to be added to criminal penalties. Accordingly, under the new Act, the Director of Public Prosecutions, or his representative, is to appear at the trial of every election petition, and with this assistance the Election Judge is empowered to summon and deal with offenders red-handed (*b*). Great difficulties are placed in the way of improper withdrawals of petitions, and a corrupt agreement to withdraw is declared to be a misdemeanour (*c*). In elections where there is no petition, it will be the duty of the Director of Public Prosecutions, on complaint being made to him, to institute proper inquiries and prosecute offenders (*d*). Thus corruption will not in the future be allowed to go undetected.

On the other hand, besides punishment on conviction, Disabilities
imposed. incapacities of a serious character are to result from a person being reported guilty of corrupt practices by Election Judges or Election Commissioners (*e*). Hitherto

(*a*) Ss. 1, 6 of Act.
 (*c*) S. 41.

(*b*) S. 43.
 (*d*) S. 45.
 (*e*) S. 38 (5).

Introdn. those most guilty have hurried to give their evidence, and, protected by certificates of indemnity, have obtained immunity from all consequences, unless disfranchised by an Act of Parliament. Now, even if a certificate of indemnity be obtained, a loss of many civil rights will result. A candidate reported personally guilty of corrupt practices can never sit again for the same constituency, and is rendered incapable of being a member of the House of Commons for seven years (*a*). All persons, whether candidates or not, are, on being reported, rendered incapable of holding any public office or exercising any franchise for the same period (*b*). Moreover, if any persons so found guilty are magistrates, barristers, solicitors, or members of other honourable professions, they are to be reported to the Lord Chancellor, Inns of Court, High Court of Justice, or other authority controlling their profession, and dealt with as in the case of professional misconduct. Licensed victuallers are, in a similar manner, to be reported to the licensing justices, who may on the next occasion refuse to renew their licenses (*c*). A further penalty is imposed on extensive corruption, as the Court trying an election petition may order either a corrupt constituency, or an individual proved to have been extensively engaged in corrupt practices, to pay the whole or part of the costs of the petition (*d*).

(*a*) S. 4. (*b*) Ss. 6, 38 (5). (*c*) S. 38 (6)—(8). (*d*) S. 44.

So far the Act only effects extensions or alterations of Introdn. the existing law. Even the new provisions thus referred to bear affinity to the principles of previous legislation. But those who framed the Bill were not deficient in courage or originality. They evidently regarded extravagant expenditure as "the father of corruption" (a), and considered that excessive and unnecessary payments became in many cases indistinguishable from bribery, and even where not in themselves questionable, always tended to make easy the descent to practices that were eminently pernicious. Moreover, such extravagance was productive of two great evils. It discouraged men of ability but of little wealth from entering the House of Commons, and it fostered a race of paid agents, many of whom regarded politics only as a means of making a livelihood, and in their conduct of elections were more anxious to ensure success than scrupulous as to their methods of attaining it.

As the only remedy for such evils, the Government proposed a system for defining the limits of expenditure during an election contest. To enact such a novel law successfully, and without arousing undue irritation, required both ingenuity and courage. But still it has been done. Looking back at the scheme as originally traced, it is easy to distinguish its guiding features.

First, then, the employment of all paid assistants <sup>Illegal
practices.</sup>

(a) *Hansard, Parliamentary Debates, ccvii., p. 267.*

Introdn. except a very limited number is forbidden (*a*) ; no conveyances are to be paid for, and only a restricted number of committee rooms are to be engaged (*b*). Unnecessary payments for the exhibition of bills and addresses, and for flags, bands, torches, and the like are declared illegal (*c*). But these prohibitions of specific objects were not considered sufficient. Had these alone been enacted, the money of wealthy and reckless candidates would have found other channels in which to flow. Contracts would have been entered into, and the contractor would have indirectly employed those whom the candidate was forbidden to pay. And thus it was that the "maximum scale" was adopted as at once the most direct and the most efficacious means of limiting expenditure. Whether by himself or his agents, by direct payment or by contract, the candidate is forbidden to spend more in "the conduct and management of an election" than the sums permitted by the Act, sums which depend in each case on the numerical extent of the constituency (*d*). But it was not sufficient to prohibit without imposing penalties on those who disregarded the prohibitions, and so offences of different degrees are created by the Act. Following in gravity a "corrupt practice" comes an "illegal practice," which term includes not only any expenditure in excess of the maximum allowed, but also

(*a*) S. 17.

(*b*) S. 7.

(*c*) Ss. 7, 16.

(*d*) S. 8, Sched. I., Pt. IV..

the more important classes of payments for prohibited Introdn. purposes (a). Following "illegal practice" come "illegal payment, employment, and hiring," offences which, if committed personally by a candidate or agent, amount to illegal practices (b). These include the prohibited employments, payments for flags, &c., the using of certain premises as committee rooms, and the provision of money for illegal practices.

Any person found guilty by Election Judges or on summary conviction of an "illegal practice" is liable to a fine of one hundred pounds and a five years' incapacity for voting, while a candidate guilty by himself or his agents loses his seat, and is disqualified for sitting for the same constituency : in the former case for seven years, in the latter during the existing Parliament (c). Certificates of indemnity do not protect persons reported guilty of illegal practices from the incapacity they would otherwise incur (d). The minor offences of illegal payment, &c., are punished on conviction by the same fine, but do not entail any incapacity (e).

Another leading feature in the Act is seen in its ^{Payment and return of election expenses.} provisions prescribing the payment of all claims through one election agent, and the return of election expenses by him within a strictly limited time—provisions which are absolutely necessary to secure the due obser-

(a) Ss. 7—9.

(b) Ss. 13—21.

(c) Ss. 10, 11, 43 (4).

(d) Ss. 38 (5), 59 (3).

(e) S. 21.

Introdn. vance of the maximum scale of expenditure. A violation of these provisions by a candidate or election agent amounts to an illegal practice, and vacates the seat, but where caused by accident, inadvertence, or the misconduct of another, may be excused on application to the Court (*a*).

Probable effect of the Act. Such then are the main—only the main—provisions of this important measure. It may to some extent fail ; it in all probability will fail to eradicate corrupt practices from our Electoral System. In many constituencies the habit of corruption is deeply set, and when for years men have never voted without payment, they will be loth to lose the price of their vote. Ambitious and reckless men may still be found willing, however great the risk, to pay this price. But the Act will do much to frighten and deter even those inured to such practices, and as time goes on public opinion will gradually become more alive, if not to the evils, at least to the impolicy of electoral corruption.

But, no doubt the principal effect of the new legislation will be very greatly to reduce expenditure, and so encourage voluntary effort in election contests. It will protect candidates from being harassed by all sorts of ridiculous demands, and constituencies from being demoralised by a flood of reckless extravagance. It will save at least a million and a half of money at the next

General Election, and open the door of the House of Introdn. Commons to men possessed of talent though not of wealth. Above all, it will in many cases replace those paid agents who regard politics only as a means of gain, by volunteers moved by political enthusiasm and working for purely political ends. They will represent the strength of a cause, by which and for which they will seek success. And it may be that the knowledge that without such a cause no election can be won, will strengthen statesmen in the effort to attain a truer standard of political principle than has hitherto prevailed in this country.

PARLIAMENTARY ELECTIONS
(CORRUPT AND ILLEGAL PRACTICES)
ACT, 1883.

46 & 47 VICT. c. 51.

An Act for the better prevention of Corrupt and Illegal Practices at Parliamentary Elections.

[25th August, 1883.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Corrupt Practices.

§ 1.
What is treating.

1. Whereas under section four of the Corrupt Practices Prevention Act, 1854, persons other than candidates at Parliamentary elections are not liable to any punishment for treating, and it is expedient to make such persons liable ; be it therefore enacted in substitution for the said section four as follows :—

(1.) Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat drink en-

NOTES.
—♦—*Abbreviations.*

- C. P. Act, 1854.. The Corrupt Practices Prevention Act, 1854 (17 & 18 Vict. c. 102).
C. P. Act, 1863.. The Corrupt Practices Prevention Act, 1863 (26 Vict. c. 29).
R. P. Act The Representation of the People Act, 1867 (30 & 31 Vict. c. 102).
P. E. Act The Parliamentary Elections Act, 1868 (31 & 32 Vict. c. 125).
Ballot Act The Ballot Act, 1872 (35 & 36 Vict. c. 33).
O'M. & H. O'Malley and Hardcastle's Reports of Election Petitions.

Note to Section 1.

This section renders all persons (whether candidates or not) who commit the offence of corrupt treating, liable to the punishment and incapacities mentioned in s. 6 below.

Under the Corrupt Practices Act, 1854, only candidates incurred the penalty (£50 and loss of seat) for corrupt treating (s. 4), but any person who gave to voters on the day of the nomination or poll any refreshment, or money or tickets for refreshment (with or without corrupt intent), was liable to forfeit 40s. (s. 23). As the latter section is repealed by the present Act, no entertainment of voters without corrupt intent, will in future be punishable.

Any person who, &c.—This definition of treating is not new, being substantially the same as that in s. 4 of the Corrupt Practices Act, 1854.

§ 1.

ertainment or provision to or for any person, for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.

(2). And every elector who corruptly accepts or takes any such meat drink entertainment or provision shall also be guilty of treating.

§ 2.

What is
undue
influence.

2. Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail

Corruptly,—*i.e.*, contrary to the intention of the Act, with a motive or intention by means of treating to produce an effect upon the election (*per* Blackburn, J., *Hereford*, 1 O'M. & H. 195; *cf.* *Bewdley*, 19; and *Cooper v. Slade*, 6 H. L. C. 788, *per* Cranworth, L.). Thus giving refreshments *bona fide* to committee men has been held not to be treating (*Bradford*, 1 O'M. & H. 39).

By any other person.—“Person” is defined (s. 64) to include an association, &c. Therefore any person, who knowingly subscribes to any association which spends part of its funds in influencing voters by treating, may be punishable under this section.

Either before, during, or after an election.—See note to s. 64. Seats have been avoided for acts of treating committed two months before the dissolution (*Youghal*, 1 O'M. & H. 291), and at a test ballot (*Bristol*, 2 O'M. & H. 27), and also for acts done after an election was over in pursuance of a previous invitation or expectation (*Poole*, 2 O'M. & H. 125).

Entertainment or provision.—These words are taken from the old Treating Act of 1695 (7 & 8 Will. 3, c. 4, *cf.* 5 & 6 Vict. c. 102, s. 22). Their modern equivalent would be “refreshments.”

Every elector who corruptly accepts.—The recipient of treating is now for the first time punishable for the offence.

Guilty of treating.—See ss. 4—6 for penalties. S. 22 enables a candidate guilty by his agents to get relief in trivial cases of treating and undue influence. S. 36 avoids the vote of every person guilty of a corrupt practice.

Note to Section 2.

This section was introduced in committee in the House of Commons to amend the somewhat vague definition of undue influence in s. 5 of the Corrupt Practices Act, 1854. It only differs from that section in (1) omitting the words “or in any other manner practise intimidation,” after “harm or loss,” in the fifth line, and “or otherwise interfere with” after “prevent” in the ninth line, and (2), adding “temporal or spiritual” before “injury.”

For the best definition of “spiritual” undue influence under the old law, see the judgment of Fitzgerald, B., in the *Longford Case* (2 O'M. & H. 16). “He (the Catholic priest) may not appeal to the fears or terrors or superstition of those he addresses. He must not (with a view to influence a voter), hold out hopes of reward here or hereafter, and he must not use threats of disadvantage or of punishment hereafter.” This judgment is now apparently limited by the new definition, as a priest who threatens future punishment can hardly be said to “threaten to

§ 2.

upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

§ 3.

What is
corrupt
practice.

3. The expression "corrupt practice" as used in this Act means any of the following offences; namely, treating and undue influence, as defined by this Act, and bribery and personation, as defined by the enactments set forth in Part Three of the Third Schedule to this Act, and aiding, abetting, counselling, and procuring the commission of the offence of personation, and every offence which is a corrupt practice within the meaning of this Act shall be a corrupt practice within the meaning of the Parliamentary Elections Act, 1868.

31 & 32 Vict.
c. 125.

§ 4.

Punishment
of candi-
date found,
on election
petition,
guilty per-
sonally of
corrupt
practices.
31 & 32 Vict.
c. 125.

4. Where upon the trial of an election petition respecting an election for a county or borough the election court, by the report made to the Speaker in pursuance of section eleven of the Parliamentary Elections Act, 1868, reports that any corrupt practice other than treating or undue influence has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever being elected to or sitting in the House of Commons for the said county or borough, and if he has been elected, his election shall be void; and he shall further be subject to the same incapacities

inflict by himself or by any other person spiritual injury." But a priest who threatens to withhold any sacrament or office of the church, is clearly within the definition. As to intimidation, see note to s. 69 (1).

Person Guilty of undue influence.—See notes to s. 1.

Note to Section 3.

This section defines "corrupt practice" for the purposes of this Act, and makes every "corrupt practice," as so defined, a ground for an election petition under the Parliamentary Elections Act, 1868.

It follows s. 3 of that Act, as amended by s. 24 of the Ballot Act, which added personation. Aiding, &c., personation is now for the first time made a corrupt practice for which a seat can be avoided.

This section includes every statutory corrupt practice. S. 3 of the P. E. Act is wider, as it adds the words "or [as such offences are] recognised by the common law of Parliament," and thus enables a seat to be declared void for general riot or corruption.

Besides the offences specified here, a false declaration by an election agent (s. 32 (7)) is "a corrupt practice within the meaning of this Act."

For the definitions of bribery and personation, see p. 181, below.

Note to Section 4.

The former law was, that a candidate reported "personally" (i.e. by himself or with his knowledge and consent) guilty of bribery, was disqualified for election to the House of Commons for seven years, while a candidate at an election for a county or borough, reported guilty "by himself or his agents" of any corrupt practice, was disqualified for election for that county or borough during the Parliament in existence (C. P. Act, 1854, s. 36; P. E. Act, s. 36; Ballot Act, s. 24). The present section in conjunction with s. 6 (4) re-enacts the above, and adds in the case of bribery a further disqualification of sitting for ever for the same constituency, and makes the candidate guilty of any corrupt practice liable to the seven years' disqualification for the House of Commons, at present only imposed for bribery. Acts, however, of treating and undue influence, committed not by the candidate himself but by his agents with his knowledge and consent, will be punishable not under this section, but under s. 5.

The election court reports.—See P. E. Act, s. 11 (14), recited in s. 11 of this Act.

For definition of "election court," see s. 64.

The same incapacities.—See s. 6 (3) (4).

§ 4.

as if at the date of the said report he had been convicted on an indictment of a corrupt practice.

§ 5.

Punishment
of candi-
date found,
on election
petition,
guilty by
agents of
corrupt
practices.

5. Upon the trial of an election petition respecting an election for a county or borough, in which a charge is made of any corrupt practice having been committed in reference to such election, the Election Court shall report in writing to the Speaker whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election ; and if the report is that any candidate at such election has been guilty by his agents of any corrupt practice in reference to such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for such county or borough for seven years after the date of the report, and if he has been elected his election shall be void.

§ 6.

Punishment
of person
convicted
on indict-
ment of
corrupt
practices.

6. (1.) A person who commits any corrupt practice other than personation, or aiding, abetting, counselling, or procuring the commission of the offence of personation, shall be guilty of a misdemeanor, and on conviction on indictment shall be liable to be imprisoned, with or without hard labour, for a term not exceeding one year, or to be fined any sum not exceeding two hundred pounds.

(2.) A person who commits the offence of personation, or of aiding, abetting, counselling, or procuring the commission of that offence, shall be guilty of felony, and any person convicted thereof on indictment shall be punished by imprisonment for a term not exceeding two years, together with hard labour.

Note to Section 5.

See note on preceding section for penalties under former law in case of a candidate reported guilty by his agents. The effect of the present section is only to re-enact the former law, and extend the former disqualification for the county or borough from the duration of the existing Parliament to seven years, which is practically two Parliaments. The guilt not being personal, no incapacities are imposed on the candidate.

Any of the candidates.—Under the former law the election court had only to report corrupt practices by agents of an *elected* candidate. P. E. Act, s. 11 (13). The report will now be obligatory in the case of all candidates.

By his agents.—See note to s. 11, and s. 22, under which a candidate may be exonerated by the election court for trivial acts of treating and undue influence done by agents other than his regular election agent.

Note to Section 6.

Under the former law bribery and undue influence were misdemeanors punishable with fine and imprisonment without hard labour, while a candidate guilty of treating only forfeited £50 to any person who sued (Corrupt Practices Act, 1854, ss. 2—5).

The effect of sub-s. (1) is to make treating punishable as other corrupt practices, and to enable hard labour to be imposed for any such offence.

On indictment.—These offences are not triable at Quarter Sessions. See the enactments applied by s. 53 below. As to summary conviction by an election court, see s. 43 (4).

Sub-section (2) merely re-enacts part of s. 24 of the Ballot Act.

§ 6.

(3.) A person who is convicted on indictment of any corrupt practice shall (in addition to any punishment as above provided) be not capable during a period of seven years from the date of his conviction :

- (a.) of being registered as an elector or voting at any election in the United Kingdom, whether it be a parliamentary election or an election for any public office within the meaning of this Act ; or,
- (b.) of holding any public or judicial office within the meaning of this Act, and if he holds any such office the office shall be vacated.

(4.) Any person so convicted of a corrupt practice in reference to any election shall also be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction, and if at that date he has been elected to the House of Commons his election shall be vacated from the time of such conviction.

*Illegal Practices.***§ 7.**

^{Certain expenditure to be illegal practice.} 7. (1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made—

- (a.) on account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise ; or,
- (b.) to an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or

Sub-section (3).—The effect of this sub-section is that every person convicted becomes for the next seven years disqualified to hold the office of justice of the peace, mayor, alderman, councillor, guardian, chairman or member of a board, vestryman, clerk of the peace, town clerk, vestry clerk, &c., or any other “public” or “judicial office” mentioned in s. 64, or to vote at any election for such “public office.” These disqualifications were formerly confined to bribery (P. E. Act, s. 45) and are considerably extended even in that case, e.g., to voting for and sitting on a school-board or board of guardians.

Registered.—See s. 39 as to the machinery for effecting this disqualification.

Or voting.—See ss. 9, 37 for penalties if such person votes.

N.B.—This section will, so far as it relates to prosecutions and punishments, apply to municipal elections (45 & 46 Vict. c. 50, s. 78). See p. 193.

Note to Section 7.

Sub-section (1) (a).—This prohibits all payments for the conveyance of electors to the poll, whether in counties or boroughs. Under the former law (since 1580) it was illegal to pay for such conveyance in all Scotch and Irish boroughs (except Galway, see note to s. 69 (9)), and for the conveyance of out-voters only in English boroughs (except the five agricultural boroughs mentioned in Schedule I., Part I. (8)). But there was no penalty in force (see 30 & 31 Vict. c. 102, □ 36; 43 Vict. c. 18, s. 2). In counties and the agricultural boroughs it has hitherto always been legal to provide conveyance for voters, but not to make payments in respect of their travelling expenses (21 & 22 Vict. c. 87, s. 1).

In future it will be illegal to convey any voters to or from the poll in a hired vehicle of any description (including e.g. a boat), except one hired at the voter’s own cost or joint cost, see s. 14 (3).

§ 7.

on account of the exhibition of any address, bill, or notice ; or,

(c.) on account of any committee room in excess of the number allowed by the First Schedule to this Act.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after an election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

(3.) Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section.

§ 8.

Expense
in excess
of maxi-
mum to be
illegal
practice.

(1.) Subject to such exception as may be allowed in pursuance of this Act, no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, in excess of any maximum amount in that behalf specified in the first schedule to this Act.

(2.) Any candidate or election agent who knowingly acts in contravention of this section shall be guilty of an illegal practice.

But conveyance in private vehicles lent gratuitously and in those hired on job and not for the occasion, will still be legal so far as their use is not prohibited by s. 14. Conveyance "by sea" is legal in certain cases (s. 48).

Payment includes "pecuniary or other reward" (s. 64).

Sub-section (1) (b).—The effect of this clause is to prohibit all payments to electors for allowing their houses, &c., to be placarded or for exhibiting placards in their windows or in other ways, e.g., by sandwich-men. An exception is made by sub-s. (3) in favour of electors ordinarily carrying on the business of advertising agents, but only for payments and contracts made to and with them in the ordinary course of their business.

Sub-section (1) (c).—For the number of committee-rooms allowed in counties and boroughs, see Schedule I., Part II. (6) (7). There is no prohibition in the Act on using any number of committee-rooms voluntarily lent and not taken for payment, provided they are not situate on any of the premises prohibited for committee-rooms by s. 20. For what is not a "committee room," see s. 64.

Subsection (2). Subject to such exception, &c.—See s. 23.

For a saving for creditors ignorant of the illegality of a contract under this section, see s. 19.

Note to Section 8.

This section enacts the new principle that there shall be a statutory limit to election expenditure. Any excess beyond that limit if knowingly incurred avoids the candidate's election (s. 11), and renders both candidate and agent liable to a fine and incapacities (s. 10).

Subject to such exception, &c.—See s. 23.

By a candidate at an election or his election agent.—For definition of "candidate at an election," and its effect on maximum expenditure, see s. 63 and note. As all payments whatever in respect of the conduct of an election must be made through the election agent (s. 27), there cannot legally be any expenditure on the election outside the regular election expenses, and in addition to the maximum.

As to expenditure in the case of joint candidates, see Schedule I., Part V.

Voting by
prohibited
persons and
publishing
of false
statement
of with-
drawal to
be illegal.

99. **9.** (1.) If any person votes or induces or procures any person to vote at any election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice.

(2.) Any person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed by his agent other than his election agent.

On account of or in respect of the conduct or management of such election.—These words are intended to limit the application of the maximum scale to expenditure which is incurred for the purposes of a particular election, and not with a view to elections generally. For instance, registration expenses and those of public meetings not held in connection with a particular election contest will not come within the scope of this and other sections limiting expenditure. It must, however, be carefully remembered that it will be a question of fact in each case what expenses have been incurred within the meaning of the above words, which are used throughout this Act in relation to the regular and legal expenses, wider words (e.g., "for the purpose of promoting or procuring the election of a candidate") being used in relation to illegal expenditure.

Any maximum amount, &c.—This refers to Parts III. and IV. of the First Schedule. The personal expenses of the candidate and the returning officer's charges are outside the maximum scale, and are not limited in amount.

The rights of innocent creditors are saved by s. 19.

Note to Section 9.

This section prohibits two distinct classes of offences.

Sub-section (1) imposes a penalty on persons voting who are prohibited from voting by any statute. These include the following:

- (a.) Persons prohibited by ss. 36 and 37 of this Act (see notes) for being guilty of corrupt practices.
- (b.) Electors who have been employed within six months of the election as paid agents, &c., and who are now guilty of a misdemeanor if they vote under s. 11 of the Representation of the People Act, 1867. See Appendix, p. 215, and Schedule I. (7).
- (c.) Metropolitan magistrates and metropolitan county and borough police, who are prohibited by various Acts from voting at elections in their respective localities. (See 10 Geo. IV. c. 44, s. 18; 2 & 3 Vict. c. 93, s. 9; 19 & 20 Vict. c. 69, s. 9, &c.)
- (d.) Persons undergoing punishment for treason or felony (33 & 34 Vict. c. 23, s. 2.)

Induces or procures.—It will equally be an offence to offer a prohibited person an inducement to vote, and to bring him up to the poll without inducement. But in the latter case the offence will not be complete unless he actually votes. Inducing a person to vote may be bribery (if within s. 2 of the C. P. Act, 1854), although he has no right to vote (Rogers on Elections, 12th ed., p. 358).

§ 10. **10.** A person guilty of an illegal practice whether under the foregoing sections or under the provisions hereinafter contained in this Act shall on summary conviction be liable to a fine not exceeding one hundred pounds and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this Act) held for or within the county or borough in which the illegal practice has been committed.

§ 11. **11.** Whereas by sub-section fourteen of section eleven of the Parliamentary Elections Act, 1868, it is provided that where a charge is made in an election petition of any corrupt practice having been committed at the election to which the petition refers, the judge shall report in writing to the Speaker as follows :—

Report of
Election
Court re-
specting
illegal
practice,
and punish-
ment of
candidate
found
guilty by
such report.
31 & 32 Vict.
c. 125.

- (a.) "Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election, and the nature of such corrupt practice ;
- (b.) "The names of all persons, if, any, who have been proved at the trial to have been guilty of any corrupt practice ;
- (c.) "Whether corrupt practices have, or whether there is reason to believe corrupt practices

Sub-section (2).—This is wholly new. For definition of candidate, see s. 63.

Provided that, &c.—This practically puts offences under this section in the same class with illegal payments, &c. (See s. 21.)

Note to Section 10.

These penalties are new.

Those hereinafter mentioned.—See ss. 28, 29.

Summary conviction, i.e., by the Election Court under s. 43 (4), or by justices under the Summary Jurisdiction Acts, with an appeal to Quarter Sessions. (See ss. 54, 55.)

Registered.—For the machinery for ensuring this disqualification, see s. 39.

Public Office is defined in s. 64, to include mayor, alderman, councillor, guardian, chairman, or member of a board, vestryman, clerk of the peace, town clerk, &c.

Note to Section 11.

This section is new, and enacts for illegal practices what ss. 4, 5, enact for corrupt practices.

As to time for presenting petitions founded on alleged illegal practices, see s. 40.

§ 11.

have, extensively prevailed at the election to which the petition relates":

And whereas it is expedient to extend the said sub-section to illegal practices:

Be it therefore enacted as follows:—

31 & 32 Vict.
c. 125.

Sub-section fourteen of section eleven of the Parliamentary Elections Act, 1868, shall apply as if that sub-section were herein re-enacted with the substitution of illegal practice within the meaning of this Act, for corrupt practice; and upon the trial of an election petition respecting an election for a county or borough, the Election Court shall report in writing to the Speaker the particulars required by the said sub-section as herein re-enacted, and shall also report whether any candidate at such election has been guilty by his agents of any illegal practice within the meaning of this Act in reference to such election, and the following consequences shall ensue upon the report by the Election Court to the Speaker; (that is to say,)

- (a.) If the report is that any illegal practice has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for the said county or borough for seven years next after the date of the report, and if he has been elected his election shall be void; and he shall further be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice; and

By his agents,—i.e., without the knowledge and consent of the candidate. In election law the doctrine of agency has been carried much further than in the common law. The candidate is held responsible (in a Parliamentary sense, not criminally) for all the acts, legal or illegal, of persons who have been proved to be his agents for the general purposes of the election. Such agency may be established by a variety of circumstances, each in itself not conclusive. No exact definition of what is sufficient to constitute agency can be given, as in each case it is a question of fact and degree. But in general the candidate "must be proved (either by himself or his authorised agent) to have employed the persons in question to act on his behalf, or to have to some extent put himself in their hands, or to have made common cause with them for the purpose of promoting his election" (*Per Grove, J., Taunton, 2 O'M. & H. 74, cf. per Blackburn, J., Taunton, 1 O'M. & H. 115*). A distinction must be drawn between such *general agents* and mere messengers and others, who are only agents for *special purposes*, and whose illegal acts (if unauthorised) would not avoid the candidate's seat. (*Windsor, 1 O'M. & H. 3; Bodmin, 1 O'M. & H. 120.*)

The same incapacities.—See s. 10.

§ 11.

(b.) If the report is that a candidate at such election has been guilty by his agents of any illegal practice in reference to such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for the said county or borough during the Parliament for which the election was held, and if he has been elected, his election shall be void.

§ 12.

Extension
of 15 & 16
Vict. c. 57,
respecting
election
commis-
sioners to
illegal
practices.
15 & 16
Vict. c. 57.
81 & 32 Vict.
c. 125.

12. Whereas by the Election Commissioners Act, 1852, as amended by the Parliamentary Elections Act, 1868, it is enacted that where a joint address of both Houses of Parliament represents to Her Majesty that an Election Court has reported to the Speaker that corrupt practices have, or that there is reason to believe that corrupt practices have, extensively prevailed at an election in any county or borough, and prays Her Majesty to cause enquiry under that Act to be made by persons named in such address (being qualified as therein mentioned), it shall be lawful for Her Majesty to appoint the said persons to be election commissioners for the purpose of making inquiry into the existence of such corrupt practices :

And whereas it is expedient to extend the said enactments to the case of illegal practices :

Be it therefore enacted as follows :—

When election commissioners have been appointed in pursuance of the Election Commissioners Act 1852, and the enactments amending the same, they may make inquiries and act and report as if "corrupt practices" in the said Act and the enactments amending the same

His election shall be void.—In certain trivial cases of illegal practices by agents other than the regular election agent, the report of the Election Court may relieve the candidate from the loss of seat (s. 22).

Note to Section 12.

This section is new. Under its provisions Election Commissioners will still be appointed under the Act of 1852 (*i.e.*, only where *corrupt* practices have extensively prevailed), but when appointed will have power to inquire into illegal as well as corrupt practices.

Election Commissioners Act, 1852.—The commissioners appointed under 15 & 16 Vict. c. 57, are to be barristers or advocates of not less than seven years' standing, and not Members of Parliament, or holding any office or place of profit under the Crown, other than that of a recorder of a city or borough (s. 1). They are to hold meetings for the purposes of the inquiry within the county or borough, or within ten miles thereof, and not to adjourn the inquiry for more than one week without the consent of a Secretary of State (s. 4). With his consent they may also hold meetings in the cities of London and Westminster (s. 5).

By s. 6 the commissioners are directed “by all such lawful means as to them appear best with a view to the discovery of the truth,” to inquire into the manner in which the election has been conducted, “and whether any corrupt practices have been committed at such election, and in case such commissioners find that corrupt practices have been committed at the election into which they are hereinbefore authorised to inquire, it shall be lawful for them to make the like inquiries concerning the latest previous election for the same county or borough. And upon their finding corrupt practices to have been committed at that election it shall be lawful for them to make the like enquiries concerning the election immediately previous thereto, and so in like manner from election to election, as far back as they may think fit; but where

§ 12.

included illegal practices ; and the Election Commissioners Act, 1852, shall be construed with such modifications as are necessary for giving effect to this section, and the expression " corrupt practice " in that Act shall have the same meaning as in this Act.

*Illegal Payment, Employment, and Hiring.***§ 13.**

Providing
of money
for illegal
practice
or payment
to be illegal
payment.

13. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum amount allowed by this Act, or for replacing any money expended in any such payment or expenses, except where the same may have been previously allowed in pursuance of this Act to be an exception, such person shall be guilty of illegal payment.

§ 14.

Employ-
ment of
hackney
carriages
or of car-

14. (1.) A person shall not let, lend, or employ for the purpose of the conveyance of electors to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or

upon inquiry as aforesaid concerning any election such commissioners do not find that corrupt practices have been committed thereat, they shall not inquire concerning any previous election; and such commissioners shall from time to time report to Her Majesty the evidence taken by them, and what they find concerning the premises, and especially such commissioners shall report with respect to each election the names of all persons whom they find to have been guilty of corrupt practice at such election, and all other things whereby in the opinion of the said commissioners the truth may be better known touching the premises."

Every report made by the commissioners is to be laid before Parliament within one month of its being made or of the next meeting of Parliament (s. 7).

As to the consequences of their report on persons reported, see s. 38 below.

Commissioners appointed after the passing of this Act are not to inquire into corrupt practices committed at elections prior to the passing of this Act (s. 49.)

Illegal practices, not into illegal payments, employments, and hiring, except so far as they may have been committed personally by a candidate or election agent (see s. 21).

Note to Section 13.

This section is wholly new, and is a necessary consequent of the other sections of the Act prohibiting certain payments.

Person includes members of an association who have taken part in the commission of the offence (s. 64).

Provides money.—By s. 28 "all money provided by any person other than the candidate" for election expenses, "shall be paid to the candidate or his election agent and not otherwise."

Money, payment, are defined by s. 64.

Contrary to the provisions of this Act.—See ss. 7, 14—17, 20, 28, 29.

Any maximum amount.—See s. 8, and Schedule I., Parts III. and IV.

Allowed . . . to be an exception.—See s. 23.

Note to Section 14.

This section was introduced in committee in the House of Commons for the purpose of preventing large jobmasters and others from evading the prohibition imposed on paid conveyances by s. 7, by lending their vehicles wholesale to election committees, &c., for the day of the poll. As regards letting and hiring, it overlaps s. 7.

§ 14.

carriages and horses kept for hire.

any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of an illegal hiring.

(2.) A person shall not hire, borrow, or use for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited by this section to let, lend, or employ for that purpose, and if he does so he shall be guilty of an illegal hiring.

(3.) Nothing in this Act shall prevent a carriage, horse, or other animal being let to or hired, employed or used by an elector, or several electors at their joint cost, for the purpose of being conveyed to or from the poll.

(4.) No person shall be liable to pay any duty or to take out a license for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election.

§ 15.

Corrupt withdrawal from a candidature.

15. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing, in pursuance of such inducement or procurement, shall also be guilty of illegal payment.

§ 16.

Certain expenditure to be illegal payment.

16 (1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of bands

The saving in sub-s. (3) applies to both this and s. 7, and saves the right of any elector to go to or from the poll in a conveyance *bond fide* hired by himself alone, or jointly with others. The only cases in which payment for conveyance is allowed to be made by another person than the elector, are those mentioned in s. 48 below.

There is nothing in either section to prevent stage and hackney carriages plying for hire in the ordinary way on the day of election.

Sub-section (4) enables tradesmen and farmers to employ their carts and waggons for the conveyance of voters to and from the poll without thereby rendering them liable to license duty as carriages.

By the Customs and Inland Revenue Duties Act, 1869 (32 & 33 Vict. c. 14) s. 19 (6), a "carriage" liable to duty under that Act is defined to mean "any vehicle drawn by a horse or mule, *except* a waggon, cart, or other vehicle used solely for the conveyance of any goods or burden in the course of trade or husbandry, and whereon," the name, &c., of the owner is "legibly painted in letters of not less than one inch in length." By the Customs and Inland Revenue Act, 1872 (35 & 36 Vict. c. 20) s. 6, it is provided that no person need take out a license for any agricultural waggon or cart, excepted in the above enactment, by reason only of its being "used for conveying the owner thereof or his family to or from any place of divine worship on Sundays," &c.

Note to Section 15.

This section is new, and was introduced in committee of the House of Commons. It only prohibits payments made from corrupt motives to induce or procure the withdrawal of a person who has already been nominated, or declared by himself or others to be a candidate (see s. 63). "Payment" includes "pecuniary or other reward" (s. 64).

Note to Section 16.

This section substantially re-enacts the latter part of s. 7 of the Corrupt Practices Act, 1854, which declared to be "illegal pay-

§ 16.

of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is made in contravention of this section, either before, during, or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment if he knew that the same was made contrary to law.

§ 17.

Certain em-
ployment
to be illegal.

17. (1.) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for any purposes or capacities mentioned in the first or second parts of the First Schedule to this Act, or except so far as payment is authorised by the first or second parts of the First Schedule to this Act.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention to this section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed contrary to law.

§ 18.

Name and

18. Every bill, placard, or poster having reference to an election shall bear upon the face thereof the name and

ments" all payments for or on account of chairing (now obsolete) and the various objects mentioned in the present section with the exception of torches. The penalty for the old "illegal payments," was repealed in 1863.

The former part of s. 7 of the Corrupt Practices Act, 1854, prohibiting candidates from giving cockades, &c., is still law, (see App. p. 197).

In one borough election in 1880, a sum of £1,456 was spent in payments for these illegal objects (El. Commrs. Rep. 1881, Sandwich, p. 8).

Payment includes pecuniary or other reward (s. 64).

For saving for innocent creditors, see s. 19.

Note to Section 17.

This section is new, so far as it prohibits *bond fide* employment for the purposes of an election. Colourable employment at election time has always been held to be bribery.

Apart from this section, the only persons prohibited from being *bond fide* employed—are (a) persons within seven years previously found guilty of corrupt practices, who may not be engaged as agents or canvassers (P. E. Act, s. 44, see App. p. 210), and (b) returning officers, their deputies, partners, and clerks, who may not be employed as agents (Representation of the People Act, s. 50, see App. p. 216, and *c.f.* Ballot Act, s. 10).

The present section does not interfere with volunteer effort, but places an absolute prohibition on the payment of canvassers, detectives, watchers, &c. It limits the number of paid agents, clerks, and messengers, but does not place any limit on the number of volunteers who may act in those capacities.

Payment includes pecuniary or other reward (s. 64).

First or second parts.—The first part of the Schedule limits the number of regular paid employés, the second part specifies other legitimate objects of expenditure, and for such objects (*e.g.* sending messages, advertising, &c.), impliedly authorises the occasional employment of persons other than those mentioned in the first part.

As to employment disqualifying persons from voting, see Sched. I., Part I. (7), and s. 11 of the Representation of the People Act, 1867.

Note to Section 18.

This section was inserted in the House of Commons to prevent the abuse of anonymous placards, such as was stated to have taken place

§ 18.
address of
printer on
placards.

address of the printer and publisher thereof ; and any person printing, publishing, or posting, or causing to be printed, published, or posted any such bill, placard, or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is the candidate, or the election agent of the candidate, be guilty of an illegal practice; and if he is not the candidate, or the election agent of a candidate, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

§ 19.
Saving for
creditors.

19. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense in excess of a certain maximum, shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act.

§ 20.
Use of com-
mittee room
in house
for sale of
intoxicating
liquor or
refresh-
ment, or in
elementary
school, to
be illegal
hiring.

20. (a.) Any premises on which the sale by wholesale or retail of any intoxicating liquor is authorised by a license (whether the license be for consumption on or off the premises), or

(b.) Any premises where any intoxicating liquor is sold, or is supplied to members of a club, society, or association other than a permanent political club, or

(c.) Any premises whereon refreshment of any kind whether food or drink, is ordinarily sold for consumption on the premises, or

(d.) The premises of any public elementary school in receipt of an annual parliamentary grant, or any part of any such premises,

at an Irish election. By the Act 2 & 3 Vict. c. 12, s. 2 (re-enacted by 32 & 33 Vict. c. 24) every person printing any paper or book whatsoever which shall be meant to be published or dispersed, must print upon the front or first or last leaf thereof his name and place of abode or business in legible characters. On default every such person and also any person publishing or dispersing any paper or book, without such name, &c., so printed, becomes liable to forfeit a sum not exceeding £5 for every copy so printed. The above enactment does not apply to Ireland, and there seems to be no similar enactment in force there.

An offence under this section, though nominally an illegal practice, only involves the same penalties as an illegal payment, &c. (see s. 21).

Note to Section 19.

This section is consequential on the sections prohibiting certain payments, and is necessary to prevent persons offending against those sections from taking advantage of the illegality of their own contracts.

Note to Section 20.

This section is wholly new, and is intended to remove certain facilities for treating which exist on premises licensed for the sale of liquor or refreshments and on club premises.

For examples of the abuses which led to this enactment, see the El. Commrs. Reports, 1881 (Chester, p. xiv., Sandwich, p. ix.). In the latter case 123 out of 142 public-houses in the borough were hired as committee-rooms.

The licensed premises to which this section applies include not only those licensed by justices (*i.e.* alc-houses, wine and beer houses, and the premises of grocers and others licensed to sell wine, beer &c., for consumption *off*), but also those of wholesale brewers and spirit and wine merchants and refreshment houses kept open between 9 p.m. and 5 a.m., all of which are required to have excise licenses.

By s. 6 of the Act 16 & 17 Vict. c. 8, no poll at any election can be taken at an inn or other place licensed for the sale of beer, wine, and spirits, or any place connected therewith, unless by consent of all the candidates in writing.

§ 20.

shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election, and if any person hires or uses any such premises or any part thereof for a committee room he shall be guilty of illegal hiring, and the person letting such premises or part, if he knew it was intended to use the same as a committee room, shall also be guilty of illegal hiring :

Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

§ 21.

Punishment
of illegal
payment,
employ-
ment, or
hiring.

21. (1.) A person guilty of an offence of illegal payment, employment or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

(2.) A candidate or an election agent of a candidate who is personally guilty of an offence of illegal payment, employment, or hiring, shall be guilty of an illegal practice.

*Excuse and Exception for Corrupt or Illegal Practice or
Illegal Payment, Employment, or Hiring.*

§ 22.

Report
exonerating
candidate
in certain
cases of
corrupt

22. Where, upon the trial of an election petition respecting an election for a county or borough, the Election Court report that a candidate at such election has been guilty by his agents of the offence of treating and undue influence, and illegal practice, or of any of such offences,

Or supplied.—These words were introduced to meet the decision in *Graff v. Evans*, 46 J. P. 262, where it was held that a sale of intoxicating liquors belonging to a club to members of that club (although a profit was thereby made for the club) was not a sale of such liquors within the meaning of the Licensing Act, 1872.

Or the premises of any public elementary school in receipt of an annual parliamentary grant.—These words were introduced in committee in the House of Commons, and seem out of place in this section. By s. 6 of the Ballot Act, the returning officer is allowed to use such premises for polling stations free of charge, and their frequent use in consequence of this provision (as well as the fact that they are supported out of public moneys) makes it undesirable that they should also be used as committee rooms.

Committee room.—For what rooms are not committee-rooms, see s. 64.

Note to Section 21.

These penalties are new.

Summary conviction.—i.e., by justices under the Summary Jurisdiction Acts with an appeal to Quarter Sessions (see ss. 54, 55).

Sub-section (2).—The effect of this is to subject the candidate and agent in the case of personal guilt to all the incapacities mentioned in ss. 10, 11. It will be necessary for an election court and election commissioners to inquire into all offences of illegal payment, employment, or hiring which may be traced to the personal action of a candidate or his election agent.

An election agent.—i.e., the principal agent appointed under s. 24, and any sub-agent acting within his district (see s. 25 (2)); but no other agent.

Note to Section 22.

This section is new. Hitherto the Election Court has had no power of relieving candidates from the consequences of corrupt practices committed by their agents, however trivial. Stricter proof of agency has, however, been required when the offences were unimportant. See the remarks of Blackburn, J., in the *Hastings Case*, (1 O'M. & H. 219).

This section will only apply to trivial acts of persons who, although held to be agents under the great extension given to the doctrine of election agency (see note to s. 11), yet acted contrary

§ 22. in reference to such election, and the Election Court
 and illegal practice by agents further report that the candidate has proved to the Court—

- (a.) That no corrupt or illegal practice was committed at such election by the candidate or his election agent, and that the offences mentioned in the said report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent ; and
- (b.) That such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at such election ; and
- (c.) That the offences mentioned in the said report were of a trivial, unimportant, and limited character ; and
- (d.) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents ; then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act.

§ 23. 23. Where, on application made, it is shown to the High Court or to an Election Court by such evidence as seems to the Court sufficient—

Power of High Court and Election Court to except innocent act from being illegal practice, &c.

- (a.) that any act or omission of a candidate at any election, or of his election agent or of any other agent or person, would, by reason of being a payment, engagement, employment, or contract in contravention of this Act, or

to the orders and without the sanction of the candidate and his election agent.

His election agent.—*i.e.*, the one appointed under s. 24, or his deputy acting within his own district, s. 25 (2).

And of his agents.—This includes all agents in the widest sense of the term.

Any incapacity under this Act, see ss. 5, 11.

Note to Section 23.

This section is new and is intended to relieve an innocent person from the consequences of an illegal practice, &c., committed by himself or his agent, *bond fide* and by inadvertence.

The application is to be made either to the Election Court, *i.e.*, the judges presiding at the trial of an election petition (s. 64), or to the “High Court,” *i.e.*, one of the election judges sitting in the High Court of Justice (s. 56).

A master of the Supreme Court of Judicature cannot make an order under this section. Applications must be made in accordance with the Rules of Court made under s. 56 (2).

§ 23.

being the payment of a sum or the incurring of expense in excess of any maximum amount allowed by this Act, or of otherwise being in contravention of any of the provisions of this Act, be but for this section an illegal practice, payment, employment, or hiring ; and

- (b.) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith ; and
- (c.) that such notice of the application has been given in the county or borough for which the election was held as to the Court seems fit ;

and under the circumstances it seems to the Court to be just that the candidate and the said election and other agent and person, or any of them, should not be subject to any of the consequences under this Act of the said act or omission, the Court may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Act of the said act or omission.

Election Expenses.

- § 24.** **24.** (1.) On or before the day of nomination at an Nomination election, a person shall be named by or on behalf of

In the case of a candidate the application must apparently be made previous to the report of the Election Court (s. 11), or his seat will be gone.

Or otherwise being in contravention of any of the provisions of this Act.—This covers not only ss. 7—20 above, but ss. 28, 29 below.

Miscalculation.—e.g., of the number of committee rooms hired.
Or from some other reasonable cause of a like nature.—e.g., the illness of an agent.

Did not arise from any want of good faith.—i.e., not only in the applicant (as in s. 34), but also in the person or persons whose act or omission it was. For relief of candidate in other cases, see s. 29 (6).

Note to Section 24.

The Act 26 Vict. c. 29, s. 2, provided that all election expenses should be paid by or on behalf of any candidate “through an agent or agents whose name and address, or names and addresses, have

§ 24. each candidate as his agent for such election (in this Act referred to as the election agent).

(2.) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this Act both as a candidate and as an election agent, and any reference in this Act to an election agent shall be construed to refer to the candidate acting in his capacity of election agent.

(3.) On or before the day of nomination the name and address of the election agent of each candidate shall be declared in writing by the candidate or some other person on his behalf to the returning officer, and the returning officer shall forthwith give public notice of the name and address of every election agent so declared.

(4.) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked, and in the event of such revocation or his death, whether such event is before, during, or after the election, then forthwith another election agent shall be appointed, and his name and address declared in writing to the returning officer, who shall forthwith give public notice of the same.

§ 25. (1.) In the case of the elections specified in that behalf in the First Schedule to this Act an election agent of a candidate may appoint the number of deputies therein mentioned (which deputies are in this Act referred to as sub-agents), to act within different polling districts.

Nomination
of deputy
election
agent as
sub-agent.

(2.) As regards matters in a polling district the election agent may act by the sub-agent for that district, and anything done for the purposes of this Act by or to the

been declared in writing to the returning officer on or before the day of nomination, or through an agent or agents to be appointed in his or their place" by the candidate.

In other respects this section is new.

Sub-section (1). On or before the day of nomination.—As all expenses "incurred on account or in respect of the conduct or management of an election" must be paid through the election agent and no other person (s. 28), it will be necessary to appoint an agent before any such expenses are paid, although his appointment need not be notified to the returning officer until the day of nomination of the candidates. As to what these expenses include, see note to s. 8 above.

By or on behalf of the candidate.—Thus the agent may be appointed by the persons nominating a candidate in his absence, or by his committee (see note to s. 63).

The election agent may or may not be an elector, but may not vote. Schedule I., Part I. (7).

See note to s. 17 for persons who may not be employed as agents.

Sub-section (3). Public notice.—See note to s. 61. Notice of the agent's office is to be given at the same time (s. 26).

Sub-section (4). One election agent only.—But see s. 25 for his power to appoint deputies.

The appointment of an election agent may be revoked at any time during an election, but serious difficulties may arise in case of a sudden revocation before the return of expenses is sent in (s. 33). After this return and the accompanying declarations have been duly sent in, the appointment may in general be deemed to terminate.

Note to Section 25.

This section is new. It enables a limited number of paid deputies to be appointed by the election agent.

Sub-section (1). The elections specified.—These are only elections for counties (including divisions of counties. P. E. Act, s. 3, applied by s. 64 below), and those for the five agricultural boroughs mentioned in Sched. I., Part I. (8).

To act within different polling districts.—Each sub-agent must be appointed for a polling district, and have an office within or adjoining that district (s. 26). Counties and the agricultural boroughs

§ 25.

sub-agent in this district shall be deemed to be done by or to the election agent, and any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against this Act, shall be an illegal practice and offence against this Act committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly ; and the candidate shall suffer the like incapacity as if the said act or default had been the act or default of the election agent.

(3.) One clear day before the polling the election agent shall declare in writing the name and address of every sub-agent to the returning officer, and the returning officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(4.) The appointment of a sub-agent shall not be vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the election agent for the time being of the candidate, and in the event of such revocation or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the returning officer, who shall forthwith give public notice of the same.

§ 26.

Office of
election
agent and
sub-agent.

26. (1.) An election agent at an election for a county or borough shall have within the county or borough, or within any county of a city or town adjoining thereto, and a sub-agent shall have within his district or within any county of a city or town adjoining thereto, an office or place to which all claims, notices, writs, summons and documents may be sent, and the address of such office or place shall be declared at the same time as the appoint-

must all be divided into polling districts (see s. 47). A sub-agent may or may not be an elector, but may not vote. Sched. I., Part I. (7).

Sub-section (2) limits the deputed authority of sub-agents to matters within their district. Thus a sub-agent can make any appointment, contract, or payment within his district (ss. 27, 28), but the principal agent alone can make the general return and declarations respecting election expenses (s. 33). On the other hand, if a sub-agent does anything which the election agent is prohibited from doing, e.g., employing a paid canvasser (s. 17), buying cockades (s. 16), or paying a claim sent in after fourteen days (s. 29), the sub-agent is punishable, and his act may unseat the candidate. An illegal payment, employment, or hiring committed personally by a sub-agent, will be an illegal practice under s. 21.

The candidate shall suffer the like incapacity, &c.—See ss. 5, 11 (b). There may be some doubt as to the application of these words to the case of a candidate acting as his own election agent, but it is presumed that they will not be held to make the candidate *personally* guilty under ss. 4, 11 (a), of the acts of his deputies.

Sub-section (4).—The provision as to the continuance of sub-agents on the determination of the appointment of the principal agent is required, because the appointment of a deputy is in law determined together with the appointment of his principal. But no corresponding provision is necessary in the case of clerks, messengers, or polling agents (s. 27), as they are not deputies,

Note to Section 28.

This section is new, and is intended to facilitate the speedy payment of all election expenses.

Sub-section (1). Within the county or borough.—These words will admit of the office of the county election agent being situate in the principal county town, even where that town is a parliamentary borough. The following words provide for the case where such town is a county of itself, but is situate within or adjoining the county constituency in question. Thus it would seem, e.g., that the agents for both North Devon and East Devon might have

§ 26.

ment of the said agent to the returning officer, and shall be stated in the public notice of the name of the agent.

(2.) Any claim, notice, writ, summons, or document delivered at such office or place and addressed to the election agent or sub-agent, as the case may be, shall be deemed to have been served on him, and every such agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction in the county or borough in which the said office or place is situate.

§ 27.

Making of contracts through election agent.

(1.) The election agent of a candidate by himself or by his sub-agent shall appoint every polling agent, clerk, and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

(2.) A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election shall not be enforceable against a candidate at such election unless made by the candidate himself or by his election agent, either by himself or by his sub-agent ; provided that the inability under this section to enforce such contract against the candidate shall not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

§ 28.

Payment of expenses through election agent.

(1.) Except as permitted by or in pursuance of this Act, no payment and no advance or deposit shall be made by a candidate at an election or by any agent on behalf of the candidate or by any other person at any time, whether before, during, or after such election, in respect of any expenses incurred on account of or in respect of the conduct or management of such election,

their office in Exeter, those for West Gloucester and East Somerset in Bristol.

As "borough" includes "university" (P. E. Act, s. 3, applied by s. 64 below), the election agent at a university election must have an office "within the university." There is nothing to prevent his having an additional office elsewhere.

Note to Section 27.

This section is new. This and the following section will make it impossible to conduct an election without a duly nominated election agent.

Sub-section (1).—The candidate himself cannot do anything mentioned in this sub-section, unless he has named himself as his own election agent (s. 24 (2)).

Polling agent.—*i.e.*, in England the personation agent mentioned in s. 85 of the Parliamentary Registration Act, 1843 (see definition in s. 64, and note).

Clerk and Messenger.—See Sch. I., Part I. (4-6), and note to s. 17.

Committee room.—See Sch. I., Part II. (6-7), and ss. 7, 20.

Sub-section (2). The conduct or management of an election.—See note to s. 8.

Provided that, &c.—The effect of this is that a candidate may be unseated for a corrupt or illegal contract made by an agent (ss. 5, 11), though such contract is not enforceable by the creditor against the candidate.

Note to Section 28.

The Corrupt Practices Act, 1863, provided that "no payment (except in respect of the personal expenses of a candidate), and no advance, loan, or deposit, should be made by or on behalf of any candidate at any election, before, or during, or after such election, on account of or in respect of such election otherwise than through" a duly nominated agent or agents, and any person offending against that section was guilty of a misdemeanor.

§ 28.

otherwise than by or through the election agent of the candidate, whether acting in person or by a sub-agent ; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as a gift, loan, advance, or deposit shall be paid to the candidate or his election agent and not otherwise :

Provided that this section shall not be deemed to apply to a tender of security to or any payment by the returning officer or to any sum disbursed by any person out of his own money for any small expense legally incurred by himself, if such sum is not repaid to him.

(2.) A person who makes any payment, advance, or deposit in contravention of this section, or pays in contravention of this section any money so provided as aforesaid, shall be guilty of an illegal practice.

§ 29.

Period for sending in claims and making payments for election expenses

29. (1.) Every payment made by an election agent, whether by himself or a sub-agent, in respect of any expenses incurred on account of or in respect of the conduct or management of an election, shall, except where less than forty shillings, be vouched for by a bill stating the particulars and by a receipt.

(2.) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election which is not sent in to the election agent within the time limited by this Act shall be barred and shall not be paid ; and subject to such exception as may be allowed in pursuance of this Act, an election agent who pays a claim in contravention of this enactment shall be guilty of an illegal practice.

The present section considerably extends the former law, by requiring all payments whatever for election purposes, to be made through the election agent of the candidate, and all money whatever provided for election expenses, to be paid to him or to the candidate himself. If any agent of the candidate violates these provisions by paying any money for the purpose of the conduct of the election, the candidate loses his seat (s. 11).

Sub-section (1). Or by any other person.—These words were introduced in committee of the House of Commons, to cover the case of payments of expenses by associations and others who might take part in an election contest, without being strictly agents of a candidate.

On account of or in respect of the conduct, &c.—See note to s. 8.

“Person” includes “association,” s. 64, and see form of return and declarations, Sched. II., pp. 172—175.

Tender of security.—S. 3 (4) of the Parliamentary Elections (Returning Officers) Act, 1875, provides that this tender may be made by any person.

For any small expense.—e.g., for a message or a cab to a committee room.

Sub-section (2). Illegal practice.—For penalties, see ss. 10, 11.

Note to Section 29.

This section is a more stringent re-enactment of s. 3 of the Corrupt Practices Act, 1863, which provided that all claims should be sent in to the election agent (if there was one competent to act) within one month from the declaration of the election, or if not so sent in, should be barred.

The present and preceding sections make the election agent the only person competent to receive and pay claims against a candidate, and by thus collecting them all as it were into one focus, and strictly limiting the time both for their receipt (sub-s. (3)), and payment (sub-s. (4)), render it possible for the agent to make the return of expenses required by s. 33 below.

All claims sent in but not paid within the time limited (whatever be the cause) become disputed claims (sub-s. (6)), which can only be paid after action brought and judgment given by a competent court (sub-s. (8)), or else by special leave of the High Court, which is also empowered (sub-s. (9)) to deal with claims not sent to the election agent within the proper time.

Sub-section (2). Every claim against a candidate.—This does not include the returning officer’s charges, for the sending in of which twenty-one days is allowed. See s. 32 (2).

§ 29.

(3.) Except as by this Act permitted, the time limited by this Act for sending in claims shall be fourteen days after the day on which the candidates returned are declared elected.

(4.) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within the time limited by this Act and not otherwise ; and, subject to such exception as may be allowed in pursuance of this Act, an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(5.) Except as by this Act permitted, the time limited by this Act for the payment of such expenses as aforesaid shall be twenty-eight days after the day on which the candidates returned are declared elected.

(6.) Where the Election Court reports that it has been proved to such Court by a candidate that any payment made by an election agent in contravention of this section was made without the sanction or connivance of such candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Act by reason only of such payment having been made in contravention of this section.

(7.) If the election agent in the case of any claim sent in to him within the time limited by this Act disputes it, or refuses or fails to pay it within the said period of twenty-eight days, such claim shall be deemed to be a disputed claim.

(8.) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court ; and any sum paid by the candidate or his agent in pursuance

Sub-sections (2), (4). *In respect of the conduct or management.*—See note to s. 8.

Subject to such exception, see s. 23.

Sub-sections (3), (5).—In reckoning these periods, Sundays and holidays are to be counted as well as week-days.

Sub-section (6).—This gives the candidate more protection than s. 23, which only relates to mistakes or failures made in good faith by the agent. The present sub-section covers the case of an intentional act by a traitorous agent. It is doubtful, however, whether, apart from this section, a candidate would be held liable for such an act. (See *Stafford*, 1 O'M. & H. 230.)

Sub-section (8). Any competent Court.—e.g. a county court for amounts within its jurisdiction. See s. 30 as to taxation.

§ 29.

of the judgment or order of such court shall be deemed to be paid within the time limited by this Act, and to be an exception from the provisions of this Act, requiring claims to be paid by the election agent.

(9.) On cause shown to the satisfaction of the High Court, such court on application by the claimant or by the candidate or his election agent may by order give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time in this section mentioned for sending in claims, or although the same was sent in to the candidate and not to the election agent.

(10.) Any sum specified in the order of leave may be paid by the candidate or his election agent, and when paid in pursuance of such leave shall be deemed to be paid within the time limited by this Act.

§ 30.

Reference
to taxation
of claim
against
candidates.

30. If any action is brought in any competent court to recover a disputed claim against a candidate at an election, or his election agent, in respect of any expenses incurred on account or in respect of the conduct or management of such election, and the defendant admits his liability, but disputes the amount of the claim, the said amount shall, unless the Court, on the application of the plaintiff in the action, otherwise directs, be forthwith referred for taxation to the master, official referee, registrar, or other proper officer of the Court, and the amount found due on such taxation shall be the amount to be recovered in such action in respect of such claim.

Shall be deemed, &c.—The effect of the judgment will be, (1) to enable the candidate himself to pay the claim; (2) to relieve him from the consequences of its not being paid within the twenty-eight days. It will not legalise any payment made in pursuance of a contract illegal under any provisions of this Act.

Sub-section (9). The High Court.—See s. 56.

Any such expenses as aforesaid.—i.e., any of those mentioned in sub-s. (2), claims for which have not been sent in to the agent within the time limited.

Sub-section (10).—See note as to the effect of a judgment (sub-s. (8)).

Note to Section 30.

This section is new, and was inserted in the House of Commons in order to provide for the more speedy settlement of exorbitant claims. There is a somewhat similar provision as to taxation of claims against returning officers in s. 4 of 38 & 39 Vict. c. 84 (see Appendix).

Any competent Court.—See s. 29 (8).

§ 31.

Personal expenses of candidate and petty expenses.

31. (1.) The candidate at an election may pay any personal expenses incurred by him on account of or in connexion with or incidental to such election to an amount not exceeding one hundred pounds, but any further personal expenses so incurred by him shall be paid by his election agent.

The candidate shall send to the election agent within the time limited by this Act for sending in claims a written statement of the amount of personal expenses paid as aforesaid by such candidate.

(2.) Any person may, if so authorised in writing by the election agent of the candidate, pay any necessary expenses for stationery, postage, telegrams, and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(3.) A statement of the particulars of payments made by any person so authorised shall be sent to the election agent within the time limited by this Act for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

§ 32.

Remuneration of election agent and returning officer's expenses.

32. (1.) So far as circumstances admit, this Act shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of such claim, the claim shall be a disputed claim within the meaning of this Act, and be dealt with accordingly.

(2.) The account of the charges claimed by the returning officer in the case of a candidate and transmitted in pursuance of section four of the Parliamentary Elec-
98 & 99 Vict. c. 84.

Note to Section 31.

This section is new, and deals with the only exceptions permitted from the stringent provisions of s. 28, above.

Sub-section (1).—The candidate has hitherto been allowed to pay the whole of his personal expenses, though he had to return “a detailed statement” of them under the Corrupt Practices Act, 1863, s. 4. In future the amount of his personal expenses will still be unlimited, being outside the maximum scale (Sch. I., Part IV.), but any excess over £100 will have to be paid through his election agent, otherwise the candidate will be guilty of an illegal practice under s. 28, and may lose his seat, unless relieved under s. 23.

Personal expenses are defined in s. 64.

At a borough election in 1880 no less than £650 was spent by a single candidate under this head. (See El. Comm. Rep. Parly. Papers, 1881, No. 2796.)

Sub-section (3) guards against illegal payments being made under the colour of an authority given under sub-s. (2).

Note to Section 32.

This section is consequential on s. 29.

Sub-section (1) applies s. 29 as far as possible to the election agent’s claim for remuneration, which must consequently be paid by the candidate within the twenty-eight days limited by s. 23 (5), or otherwise become a disputed claim. The payment must also be vouched for by a bill and receipt (s. 29 (1)), and be duly entered in the election agent’s return of expenses (see Sched. II., p. 176).

Sub-section (2).—See the Act referred to, App. p. 217. It does not apply to Scotland (s. 68 (11), and note to p. 221).

§ 32.

tions (Returning Officers) Act, 1875, shall be transmitted within the time specified in the said section to the election agent of the candidate.

Return
and declara-
tion re-
pecting
election
expenses.

§ 33.

33. (1.) Within thirty-five days after the day on which the candidates returned at an election are declared elected, the election agent of every candidate at that election shall transmit to the returning officer a true return (in this Act referred to as a return respecting election expenses), in the form set forth in the Second Schedule to this Act or to the like effect, containing, as respects that candidate,—

- (a.) A statement of all payments made by the election agent, together with all the bills and receipts (which bills and receipts are in this Act included in the expression "return respecting election expenses") ;
- (b.) A statement of the amount of personal expenses, if any, paid by the candidate ;
- (c.) A statement of the sums paid to the returning officer for his charges, or, if the amount is in dispute, of the sum claimed and the amount disputed ;
- (d.) A statement of all other disputed claims of which the election agent is aware ;
- (e.) A statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court ;
- (f.) A statement of all money, securities, and equivalent of money received by the election agent from the candidate or any other person

Within the time in the said section mentioned.—i.e., twenty-one days from the day of the declaration of the poll.

Note to Section 33.

This section re-enacts in a more stringent and detailed form the part of s. 4 of the Corrupt Practices Act, 1863, which provided that “a detailed statement of all election expenses” (including the personal expenses of the candidate) should be sent by the election agent or agents (and by the candidate as regards payments by him) to the returning officer with the bills and vouchers within two months after the election. Under that Act the punishment for default by a candidate or agent was £5 a-day recoverable by action, and a false statement was a misdemeanor.

The present section (coupled with the forms in Sched. II.) prescribes a much stricter and more definite form of account, which when sent in is to be accompanied by a solemn declaration of its correctness and sufficiency both by agent and candidate. Default or false statement on the part of either is to avoid the seat and subject either or both of them if not excused to the penalties and incapacities for an illegal or corrupt practice respectively, sub-ss. (6), (7). In certain cases, however, an “authorised excuse” may be obtained from the High Court or an Election Court (s. 34). The time for sending in the return is further limited to thirty-five days after the election (sub-s. 1), and the candidate is prohibited under a heavy penalty from sitting or voting after the thirty-five days have expired until both return and declarations are made (sub-s. 5).

These elaborate provisions will render proper returns indispensable in future. After the election of 1880 there were no fewer than 87 candidates (77 being Irish) who failed to make any return of their expenses.

Sub-section (1). Thirty-five days.—i.e., seven days (counting Sundays) after all claims (except those disputed) are paid, s. 29 (5).

See the form of return, Schedule II., p. 175.

(a.) *Bills and receipts.*—As to what are necessary, see ss. 29 (1), 31 (3).

(b.) *Personal expenses paid by the candidate.*—These must not exceed £100, and need not be particularised, s. 31 (1).

(c.) These charges are strictly limited by the Act 38 & 39 Vict. c. 84 (England and Ireland). See Appendix, p. 217, and s. 32 (2), Schedule I., Part II. (1).

(d.) As to disputed claims, see s. 28 (7).

(e.) These are the claims mentioned in s. 29 (9) other than disputed claims. See also sub-s. (9) below.

§ 33.

for the purpose of expenses incurred or to be incurred on account of or in respect of the conduct or management of the election, with a statement of the name of every person from whom the same may have been received.

(2.) The return so transmitted to the returning officer shall be accompanied by a declaration made by the election agent before a justice of the peace in the form in the Second Schedule to this Act (which declaration is in this Act referred to as a declaration respecting election expenses).

(3.) Where the candidate has named himself as his election agent, a statement of all money, securities, and equivalent of money paid by the candidate shall be substituted in the return required by this section to be transmitted by the election agent for the like statement of money, securities, and equivalent of money received by the election agent from the candidate ; and the declaration by an election agent respecting election expenses need not be made, and the declaration by the candidate respecting election expenses shall be modified as specified in the Second Schedule to this Act.

(4.) At the same time that the agent transmits the said return, or within seven days afterwards, the candidate shall transmit or cause to be transmitted to the returning officer a declaration made by him before a justice of the peace, in the form in the first part of the Second Schedule to this Act (which declaration is in this Act referred to as a declaration respecting election expenses).

(f.) This will include all money whatever provided for the election expenses of the candidate, whether by his agent or other persons or associations. See s. 28.

Sub-section (2).—For the form of declaration by the election agent, see p. 173.

*Sub-section (4). Before a justice of the peace.—*This declaration must be made in the United Kingdom. A further time is allowed when the candidate is abroad at the time of the return being sent in. See sub-s. (8) below. For the form of declaration by a candidate, see p. 172. If he is nominated without his consent or in his absence, and takes no part in the election, he may make the alternative declaration at p. 178 (see s. 63 (2), b).

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(5.) If in the case of an election for any county or borough, the said return and declarations are not transmitted before the expiration of the time limited for the purpose, the candidate shall not, after the expiration of such time, sit or vote in the House of Commons as member for that county or borough until either such return and declarations have been transmitted, or until the date of the allowance of such an authorised excuse for the failure to transmit the same, as in this Act mentioned, and if he sits or votes in contravention of this enactment he shall forfeit one hundred pounds for every day on which he so sits or votes to any person who sues for the same.

(6.) If without such authorised excuse as in this Act mentioned, a candidate or an election agent fails to comply with the requirements of this section, he shall be guilty of an illegal practice.

(7.) If any candidate or election agent knowingly makes the declaration required by this section falsely, he shall be guilty of an offence, and on conviction thereof on indictment shall be liable to the punishment for wilful and corrupt perjury ; such offence shall also be deemed to be a corrupt practice within the meaning of this Act.

(8.) Where the candidate is out of the United Kingdom at the time when the return is so transmitted to the returning officer, the declaration required by this section may be made by him within fourteen days after his return to the United Kingdom, and in that case shall be forthwith transmitted to the returning officer, but the delay hereby authorised in making such declaration shall not exonerate the election agent from complying with

Sub-section (5). *After the expiration of such time.*—*i.e.*, he may sit and vote until the expiration of thirty-five days from his election, but no longer unless the return of expenses and declarations have been duly sent in.

The date of the allowance of such authorised excuse.—See s. 34 (4).

To any person who sues for the same,—*i.e.*, the common informer. These words remove the doubt that arose in *Bradlaugh v. Clarke*, L. B. 8 App. Cas. 354.

Sub-section (6). *Such authorised excuse, &c.*—See s. 34.

Sub-section (7).—The punishment for perjury is seven years' penal servitude. The offence is also made a corrupt practice, subjecting the candidate to the loss of seat and disabilities mentioned in s. 5. But the candidate may get an excuse under s. 34 (3). For the purpose of petitioning, this corrupt practice is to be treated as an illegal practice, s. 40 (3).

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the provisions of this Act as to the return and declaration respecting election expenses.

(9.) Where, after the date at which the return respecting election expenses is transmitted, leave is given by the High Court for any claims to be paid, the candidate or his election agent shall, within seven days after the payment thereof, transmit to the returning officer a return of the sums paid in pursuance of such leave accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this section without such authorised excuse as in this Act mentioned.

§ 34.

Authorised excuse for non-compliance with provisions as to return and declaration respecting election expenses.

34. (1.) Where the return and declarations respecting the election expenses of a candidate at an election for a county or borough have not been transmitted as required by this Act, or being transmitted contain some error or false statement, then—

(a.) if the candidate applies to the High Court or an Election Court and shows that the failure to transmit such return and declarations, or any of them, or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or of the absence, death, illness, or misconduct of his election agent or sub-agent or of any clerk or officer of such agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant, or

(b.) if the election agent of the candidate applies to the High Court or an Election Court and

Sub-section (9). Leave is given,—i.e., under s. 29 (9).

He shall be deemed to have failed to comply, &c.—i.e., he shall be guilty of an illegal practice under sub-s. (6).

Note to Section 34.

This section is new, and follows on s. 33, as s. 23 follows on ss. 7—21. The object of both these sections is to enable the Court to give equitable relief to innocent parties, but this section is not like s. 23, confined to cases of default from inadvertence or other reasonable cause, but extends to cases of default, error, and false statement caused by the misconduct of an agent or other person. Under sub-s. (3) a candidate can get relief whenever he can prove to the Court that the default of the election agent was without his sanction and connivance. The language is, however, carefully guarded so that none but innocent parties may get relief.

It would seem that where there is an election petition, application must be made under this section previous to the report of the Election Court if the candidate's seat is to be saved (see s. 11).

Sub-section (1). High Court or Election Court.—See note to s. 23, and ss. 56, 64.

False statement.—This may be either an incorrectness arising from inadvertence, or a false declaration due to misconduct.

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shows that the failure to transmit the return and declarations which he was required to transmit, or any part thereof, or any error or false statement therein, arose by reason of his illness or of the death or illness of any prior election agent of the candidate, or of the absence, death, illness, or misconduct of any sub-agent, clerk, or officer of an election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant, the court may, after such notice of the application in the said county or borough, and on production of such evidence of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the court seems fit, make such order for allowing an authorised excuse for the failure to transmit such return and declaration, or for an error or false statement in such return and declaration, as to the court seems just.

(2.) Where it appears to the court that any person being or having been election agent or sub-agent has refused or failed to make such return or to supply such particulars as will enable the candidate and his election agent respectively to comply with the provisions of this Act as to the return and declaration respecting election expenses, the court before making an order allowing the excuse as in this section mentioned shall order such person to attend before the court, and on his attendance shall, unless he shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the

Sub-section (2) empowers the Court to extract the necessary information from an absent or defaulting agent or ex-agent to enable the candidate to make his declaration and return and take his seat. See s. 33 (5).

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return, as to the court seem just, and to make or deliver the same within such time and to such person and in such manner as the court may direct, or may order him to be examined with respect to such particulars, and may in default of compliance with any such order order him to pay a fine not exceeding five hundred pounds.

(3.) The order may make the allowance conditional upon the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Act ; and an order allowing an authorised excuse shall relieve the applicant for the order from any liability or consequences under this Act in respect of the matter excused by the order ; and where it is proved by the candidate to the court that any act or omission of the election agent in relation to the return and declaration respecting election expenses was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing such act or omission, the court shall relieve the candidate from the consequences of such act or omission on the part of his election agent.

(4.) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.

§ 35.

Publication
of summary
of return of 35. (1.) The returning officer at an election within ten days after he receives from the election agent of a candidate a return respecting election expenses shall

Note to Section 35.

This section re-enacts in a modified form the part of s. 4 of the Corrupt Practices Act, 1863, which provided for a similar publi-

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election expenses.

ss & 39 Vict
c 84.

publish a summary of the return in not less than two newspapers circulating in the county or borough for which the election was held, accompanied by a notice of the time and place at which the return and declarations (including the accompanying documents) can be inspected, and may charge the candidate in respect of such publication, and the amount of such charge shall be the sum allowed by the Parliamentary Elections (Returning Officers) Act, 1875.

(2.) The return and declarations (including the accompanying documents) sent to the returning officer by an election agent shall be kept at the office of the returning officer, or some convenient place appointed by him, and shall at all reasonable times during two years next after they are received by the returning officer be open to inspection by any person on payment of a fee of one shilling, and the returning officer shall on demand furnish copies thereof or any part thereof at the price of twopence for every seventy-two words. After the expiration of the said two years the returning officer may cause the said return and declarations (including the accompanying documents,) to be destroyed, or, if the candidate or his election agent so require, shall return the same to the candidate.

Disqualification of Electors.

§ 36.

Prohibition
of persons
guilty of
corrupt
or illegal
practices,
&c., from
voting.

36. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at an election is prohibited from voting at such election, and if any such person votes his vote shall be void.

cation by the returning officer within fourteen days, and the preservation of the bills and vouchers for six months.

Sub-section (1). Within ten days.—This will ensure the publication of the expenses (where the law has been complied with) within forty-five days from the day of election, see s. 33 (1). In reckoning these periods both Sundays and weekdays are counted.

The sum allowed.—Under 38 & 39 Vict. c. 84, Schedule I., II., the returning officer is allowed for such publication, in respect of each candidate, £2 2s. in a county, and £1 1s. in a borough election.

Sub-section (2). Two years.—This is an extension of time made to conform with s. 51 of this Act, under which the time limited for bringing proceedings for offences under the Act is in some cases extended to two years.

Note to Section 36.

This section prohibits from voting persons guilty of corrupt and illegal practices, &c., at the same election, and is wholly new as regards illegal practice, employment, payment, and hiring.

As regards persons guilty of corrupt practice, the vote of a person bribed, treated, or unduly influenced, and also of a person guilty of personation, was void by the common law of Parliament,

§ 37.
Prohibition
of disquali-
fied persons
from voting.
35 & 36 Vict.
c. 60.
45 & 46 Vict.
c. 50.

37. Every person who, in consequence of conviction or of the report of any Election Court or election commissioners under this Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

§ 38.
Hearing
of person
before he is

38. (1.) Before a person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an

and liable to be struck off on a scrutiny. But the vote of the briber, treater, and person exercising undue influence was not invalid (*Oldham*, 1 O.M. & H. 152, 161). Under this section the corrupters as well as the corrupted, will be liable to have their votes, when declared invalid, struck off on a scrutiny (see Ballot Act, Schedule I., R. 41).

His vote shall be void.—S. 7 of the Ballot Act, which makes the register conclusive, provides that nothing in this section shall entitle any person to vote who is prohibited from voting by any statute or by the common law of Parliament, or relieve such person from any penalties to which he may be liable for voting.

This section does not affect s. 25 of the Ballot Act (see Appendix, p. 214), which provides for votes being struck off on a scrutiny without identification.

See s. 9 for penalty on prohibited persons voting.

Note to Section 37.

This section prohibits from voting persons disqualified by offences at former elections, and in conjunction with s. 9, imposes a new penalty on such persons voting at a Parliamentary election. Though disqualified by statute, they have not hitherto been subject to any specific penalty for voting. As to other persons disqualified for voting, see note to s. 9.

Besides persons disqualified under the enactments here mentioned, persons disqualified under ss. 43, 45 of P. E. Act (see notes to ss. 4, 6 of this Act), are prohibited from voting by the present section. (See s. 16, and note.)

The Corrupt Practices "Municipal Elections" Act, 1872, is now only in force in Ireland. In England it is repealed and replaced by Part IV. of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50; see in particular, s. 79).

Conviction . . . under this Act.—See ss. 6 (3), 10, and 43 (4).

Report of any Election Court or Election Commissioners.—See ss. 4, 11, 38 (5), (10).

Under any Act.—e.g., those relating to School Board elections. (See 33 & 34 Vict. c. 75, s. 91.)

Public office is defined by s. 64.

His vote shall be void.—See note to s. 36.

Note to Section 38.

This is one of the most important sections in the Act. It provides for the punishment of persons reported guilty of corrupt or illegal practices by election judges or election commissioners, or by a muni-

§ 38.
reported
guilty or
corrupt
or illegal
practice,
and incap-
acity of
person
reported
guilty.

Election Court, and before any person is reported by election commissioners, to have been guilty, at an election, of any corrupt or illegal practice, the court or commissioners, as the case may be, shall cause notice to be given to such person, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

(2.) Every person reported by election commissioners to have been guilty at an election of any corrupt or illegal practice may appeal against such report to the next court of oyer and terminer or gaol delivery held in and for the county or place in which the offence is alleged to have been committed, and such court may hear and determine the appeal ; and subject to rules of court such appeal may be brought, heard, and determined in like manner as if the court were a court of quarter sessions and the said commissioners were a court of summary jurisdiction, and the person so reported had been convicted by a court of summary jurisdiction for an offence under this Act, and notice of every such appeal shall be given to the Director of Public Prosecutions in the manner and within the time directed by rules of court, and subject to such rules then within three days after the appeal is brought.

(3.) Where it appears to the Lord Chancellor that appeals under this section are interfering or are likely to interfere with the ordinary business transacted before any courts of oyer and terminer or gaol delivery, he may direct that the said appeals, or any of them, shall be heard by the judges for the time being on the rota for election petitions, and in such case one of such judges

cipal election court, whether such persons have received a certificate of indemnity (under s. 59) or not. They are on being so reported, to be subject to the same incapacities as if they had been convicted at the date of the election at which the offence was committed (sub-s. 5). If justices or members of certain professions, they are also to be reported to the Lord Chancellor or authorities who control their profession (sub-s. 6, 7), and an analogous provision is made for publicans who commit or suffer bribery or treating on their licensed premises (sub-s. 8). As a safeguard against these penalties being inflicted without due cause, all persons are to be heard before being reported, and an appeal is given from the report of the election commissioners (sub-s. 1—4).

This section is new, except so far as it re-enacts s. 45 of the Parliamentary Elections Act, 1868, which disqualified "any person other than a candidate, found guilty of bribery in any proceeding in which, after notice of the charge, he has had an opportunity of being heard." It was held by Blackburn, J. (*Bewdley*, 1 O.M. & H. 25), that the opportunity mentioned in this enactment did not mean "that kind of opportunity which a witness has who is called up upon the spur of the moment, and who is subject to cross-examination," but meant "an opportunity of being heard when he has a fair warning of the charge, and is asked to meet it, and be heard by himself or his counsel."

It has hitherto been the practice to disqualify in each case by Act of Parliament persons scheduled as guilty by election commissioners (see e.g. 39 & 40 Vict. c. 72, s. 2).

Sub-section (1) secures a right of being heard to all persons who have not (as candidates or petitioners) necessarily had notice of the proceedings of the Court or commissioners. As to service of notice, see s. 62 (2).

By himself,—*i.e.*, not by counsel or solicitor, which would prolong election inquiries to an intolerable extent. These words were inserted to meet the doubt which the concluding words of Blackburn, J.'s decision (quoted above) threw on the extent of the right of "being heard."

Sub-section (2).—The procedure on appeal from courts of summary jurisdiction to quarter sessions in England is regulated by s. 31 of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49). The appeal is to be made "to the prescribed court . . . and if no court is prescribed, to the next practicable court . . . holden not less than fifteen days after the day" on which the decision appealed from was given.

Rules of Court.—See s. 56 (2).

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shall proceed to the county or place in which the offences are alleged to have been committed, and shall there hear and determine the appeals in like manner as if such judge were a court of oyer and terminer.

(4.) The provisions of the Parliamentary Elections Act, 1868, with respect to the reception and powers of and attendance on an Election Court, and to the expenses of an Election Court, and of receiving and accommodating an Election Court, shall apply as if such judge were an Election Court.

(5.) Every person who after the commencement of this Act is reported by any Election Court or election commissioners to have been guilty of any corrupt or illegal practice at an election, shall, whether he obtain a certificate of indemnity or not, be subject to the same incapacity as he would be subject to if he had at the date of such election been convicted of the offence of which he is reported to have been guilty: provided that a report of any election commissioners inquiring into an election for a county or borough shall not avoid the election of any candidate who has been declared by an Election Court on the trial of a petition respecting such election to have been duly elected at such election, or render him incapable of sitting in the House of Commons for the said county or borough during the Parliament for which he was elected.

(6.) Where a person who is a justice of the peace is reported by an Election Court or election commissioners to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to report the case to the Lord High

Sub-section (4).—S. 28 of the Parliamentary Elections Act, 1868, provides that the election judge shall be received as a judge of assize, and that his expenses and the expenses of receiving and accommodating him shall be defrayed by the Treasury out of money to be provided by Parliament. Ss. 29, 30 of the same Act provide that he shall have the same powers and be attended in the same manner as if he were a judge of assize and nisi prius (see Appendix, pp. 206, 207).

Sub-section (5). Guilty—i.e., personally (see note to s. 4).

Certificate of indemnity.—See s. 59 (3).

Incapacity.—See for corrupt practice, s. 6 (4), for illegal practice, s. 10. Any incapacity may be removed on proof that it was cured by perjury (s. 46).

At the date of such election.—This provides a limitation of time. If a person is reported by commissioners to have committed a corrupt practice at an election more than seven years old, he will not thereby incur any incapacity.

Provided that, &c.—This saves a candidate who has been previously acquitted by an Election Court from being subject to any punishment if reported guilty by commissioners.

Sub-section (6). Director of Public Prosecutions.—See ss. 43, 45, and sub-s. (9) below.

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Chancellor of Great Britain with such evidence as may have been given of such corrupt practice, and where any such person acts as a justice of the peace by virtue of his being, or having been, mayor of a borough, the Lord High Chancellor shall have the same power to remove such person from being a justice of the peace as if he was named in a commission of the peace.

(7.) Where a person who is a barrister or a solicitor, or who belongs to any profession the admission to which is regulated by law, is reported by any Election Court or election commissioners to have been guilty of any corrupt practice in reference to an election, whether such person has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring the matter before the Inn of Court, High Court, or tribunal having power to take cognizance of any misconduct of such person in his profession, and such Inn of Court, High Court, or tribunal may deal with such person in like manner as if such corrupt practice were misconduct by such person in his profession.

(8.) With respect to a person holding a license or certificate under the Licensing Acts (in this section referred to as a licensed person) the following provisions shall have effect :

(a.) If it appears to the court by which any licensed person is convicted of the offence of bribery or treating that such offence was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licenses.

(b.) If it appears to an Election Court or election commissioners that a licensed person has

By virtue of his being or having been mayor.—Mayors of corporate boroughs are ex-officio justices during their year of office, and (if they still remain qualified to be mayors) during the year next following (45 & 46 Vict. c. 60, s. 155). This clause gives the Lord Chancellor the same power of removing these *ex-officio* justices as he has in the case of ordinary justices.

Sub-section (7). *Any profession, &c.*—*e.g.*, that of medical practitioner, regulated by 21 & 22 Vict. c. 90; dentists, by 41 & 42 Vict. c. 33; London brokers, by 6 Anne, c. 68, &c.,

May deal with such person, &c.—*i.e.*, may disbar him or strike him off the rolls.

Sub-section (8).—The license or certificate here mentioned is, in England, one granted by justices under the Licensing Acts, 1872—1874 (see definition of Licensing Acts, s. 64). Consequently a *licensed person* within this sub-section will be a holder of any of the following licenses:—A publican's or alehouse license granted under the Act of 1828 (9 Geo. IV. c. 61), wine-house and beer-house certificates under the Act of 1869 (32 & 33 Vict. c. 27), and grocers' and all other licenses to retail wine, beer, spirits, and sweets for consumption off the premises, except those granted by the excise to wholesale spirit-dealers and wine-dealers (see ss. 73, 74 of 35 & 36 Vict. c. 94).

The proper register of licenses.—S. 36 of the Licensing Act, 1872, provides for a register of licenses being kept in every licensing district, containing the names of the holders of licenses, and owners of premises, forfeitures of licenses, disqualification of premises, records of convictions, &c.

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knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court or commissioners (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same: and whether such person obtained a certificate of indemnity or not it shall be the duty of the Director of Public Prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his license, and such licensing justices shall cause such report to be entered in the proper register of licenses.

(c.) Where an entry is made in the register of licenses of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his license or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

(9.) Where the evidence showing any corrupt practice to have been committed by a justice of the peace, barrister, solicitor, or other professional person or any licensed person was given before election commissioners, those commissioners shall report the case to the Director of Public Prosecutions, with such information as is

Subject to the provisions of this Act, &c.—See sub-s. (1) above.

Sub-section 8 (c).—The justice's license is for a year only, and must be annually renewed. The licensing justices have an absolute discretion (subject to appeal to Quarter Sessions) to refuse renewal, for cause, though whether they may refuse arbitrarily (except in cases of beerhouse off licenses under 45 & 46 Vict. c. 34,) is doubtful. But in the single case of beer and wine houses licensed for sale for consumption on the premises on May 1st, 1869, the justices may only refuse renewal on one of the four grounds mentioned in 32 & 33 Vict. c. 27, ss. 8, 19. The first of these is that the applicant has failed to produce satisfactory evidence of good character. If the applicant has been convicted in the previous year, the justices can refuse the license on this ground (see *R. v. Birmingham Justices*, 40 J. P. 132).

The direction to the justices, under the present sub-section, will enable them to refuse renewal in all cases where the licensee has been convicted of, or reported guilty of suffering, bribery or treating on the licensed premises.

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necessary or proper for enabling him to act under this section.

(10.) This section shall apply to an Election Court under this Act, or under Part IV. of the Municipal Corporations Act, 1882, and the expression election shall be construed accordingly.

§ 39.

List in register of voters of persons incapacitated for voting by corrupt or illegal practices.

45 & 46 Vict.
c. 50.

39. (1.) The registration officer in every county and borough shall annually make out a list containing the names and description of all persons who, though otherwise qualified to vote at a parliamentary election for such county or borough respectively, are not capable of voting by reason of having after the commencement of this Act been found guilty of a corrupt or illegal practice on conviction or by the report of any Election Court or election commissioners whether under this Act, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to a parliamentary election or an election to any public office ; and such officer shall state in the list (in this Act referred to as the corrupt and illegal practices list), the offence of which each person has been found guilty.

(2.) For the purpose of making out such list he shall examine the report of any Election Court or election commissioners who have respectively tried an election petition or inquired into an election where the election

Sub-section (10).—This sub-section extends the whole of the present section, with the exception of sub-ss. (2)—(4), to persons reported guilty of corrupt practices by a Municipal Election Court. This court is to be constituted of a barrister (of not less than fifteen years' standing) without a jury, and to have the same powers and privileges as a judge on the trial of a parliamentary election petition, except that any person aggrieved by fine or order of committal may appeal to the High Court (45 & 46 Vict. c. 50, s. 92). As to what constitutes a corrupt practice at a municipal election, and what incapacities follow on conviction, see 45 & 46 Vict. c. 50, ss. 77—79, and page 193.

Note to Section 39.

This section is new, except so much of sub-ss. (6)—(8) as refers to corrupt practices, and re-enacts s. 6 of the Corrupt Practices Act, 1854.

It provides machinery for carrying into effect the disfranchisement of persons guilty of corrupt and illegal practices by imposing on the “registration officer” the duty of making a list of such persons, and on the overseers the duty of correcting by such list the lists of voters.

Sub-section (1).—“Registration officer” is defined by s. 64. He is (generally speaking) the clerk of the peace in a county and the town clerk in a borough. Any wilful omission on his part renders him liable to a penalty (s. 61 (2)).

*On conviction, or by the report, &c.—*See notes to s. 37.

Part IV. of the Municipal Corporations Act,—i.e. in England. The Act of 1872 must be substituted here for Ireland (s. 69 (10)). In Scotland there is no law against corrupt practices at municipal elections.

Sub-section (2).—This is directory, but not exhaustive. There may be persons who are disfranchised for offences committed in other places than those here mentioned. It will be the duty of the registration officer to enter all such persons in the corrupt practices list, if they are known to him, though he need not specially inquire for them.

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(whether a parliamentary election or an election to any public office) was held in any of the following places ; that is to say,

- (a.) if he is the registration officer of a county, in that county, or in any borough in that county ; and
- (b.) if he is the registration officer of a borough, in the county in which such borough is situate, or in any borough in that county.

(3.) The registration officer shall send the list to the overseers of every parish within his county or borough, together with his precept, and the overseers shall publish the list together with the list of voters, and shall also, in the case of every person in the corrupt and illegal practices list, omit his name from the list of persons entitled to vote, or, as circumstances require, add " objected " before his name in the list of claimants or copy of the register published by them in like manner as is required by law in any other cases of disqualification.

(4.) Any person named in the corrupt and illegal practices list may claim to have his name omitted therefrom, and any person entitled to object to any list of voters for the county or borough may object to the omission of the name of any person from such list. Such claims and objections shall be sent in within the same time and be dealt with in like manner, and any such objection shall be served on the person referred to therein in like manner, as nearly as circumstances admit, as other claims and objections under the enactments relating to the registration of parliamentary electors.

(5.) The revising barrister shall determine such claims

Sub-section (3) does not apply to Scotland or Ireland. See substituted enactments, ss. 68 (12), 69 (3).

Sub-sections (3) to (5).—These assimilate the proceedings in respect of the corrupt and illegal practices list to those in respect of claims and objections under the Parliamentary Registration Acts in England, which are as follows:—

(i.) In counties new claims for the freehold list are sent in on or before July 20 in each year to the overseers, who publish a list of them, together with the last year's register, marking "objected" against the names of the persons they consider disentitled to vote. Besides these overseers' objections, any person on the register of the county for the time being may object to the name of any person on the register or list of claims, and the person so objecting must, on or before August 25, give a formal notice to the overseers, and must also give to the person objected to, or leave at his abode, or send him through the post, a notice stating specifically the grounds of objection. If the objection does not succeed on these grounds it fails entirely, and costs are to be awarded by the revising barrister against any person objecting groundlessly, frivolously, or vexatiously.

The list of objections by private persons is published by the overseers and sent with the other lists to the clerk of the peace. (6 Vict. c. 18, ss. 5—9, 28 Vict. c. 36, ss. 6—8.)

(ii.) On the revision for counties new claims may be opposed by any person on the list of voters who gives in court before the claim is heard a written notice of his intention to the revising barrister. The revising barrister may insert in the list the names of any new claimants proved to be entitled and to have given due notice of their claims, and he must expunge the names of all persons on the list who are duly objected to and cannot prove their qualification. Any claimant or objector or other person aggrieved may appeal on

§ 39.

and objections and shall revise such list in like manner as nearly as circumstances admit as in the case of other claims and objections, and of any list of voters.

(6.) Where it appears to the revising barrister that a person not named in the corrupt and illegal practices list is subject to have his name inserted in such list, he shall (whether an objection to the omission of such name from the list has or has not been made, but) after giving such person an opportunity of making a statement to show cause to the contrary, insert his name in such list and expunge his name from any list of voters.

(7.) A revising barrister in acting under this section shall determine only whether a person is incapacitated by conviction or by the report of any Election Court or election commissioners, and shall not determine whether a person has or not been guilty of any corrupt or illegal practice.

(8.) The corrupt and illegal practices list shall be appended to the register of electors, and shall be printed and published therewith wherever the same is printed or published.

Proceedings on Election Petition.

§ 40.

Time for presentation of election petitions alleging illegal practice.
51 & 52 Vict. c. 125.

40. (1.) Where an election petition questions the return or the election upon an allegation of an illegal practice, then notwithstanding anything in the Parliamentary Elections Act, 1868, such petition, so far as respects such illegal practice, may be presented within the time following; (that is to say),

(a.) At any time before the expiration of fourteen days after the day on which the returning officer receives the return and declarations

any point of law, and in such cases the barrister is directed to state a special case for the opinion of the Queen's Bench Division. (6 Vict. c. 18, ss. 37—42.)

(iii.) In boroughs, and for lists of 12*l.* occupiers in counties, the proceedings are similar, except as follows:—

- (a) The overseers make out, on or before July 31 in each year, a new list of persons qualified to vote, and consequently omit from this list all persons they consider disentitled.
- (b) New claims and objections are sent in by the same day (August 25), so that new claims can only be opposed in court.
- (c) On revision for boroughs the barrister is directed to expunge all names of persons incapacitated or insufficiently qualified, whether objected to or not, after giving proper notice to such persons. All other names on the list of voters are to be retained, unless either the overseers object, or any other objector appears and proves his notice and *prima facie* his ground of objection. In either of these cases the onus of proving his qualification is thrown on the person objected to. (6 Vict. c. 18, ss. 13—18, 41 & 42 Vict. c. 26, ss. 15, 26—28, and for 12*l.* occupiers in counties, 30 & 31 Vict. c. 102, s. 30 (1), 31 & 32 Vict. c. 58, ss. 17, 19.)

Note to Section 40.

This section is new, and follows necessarily on s. 11 above. It amends (so far as relates to illegal practices only) s. 6 of the Parliamentary Elections Act, which provides that “a petition must be presented within twenty-one days after the return has been made to the Clerk of the Crown . . . unless it question the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other reward to have been made by any member, or on his account or with his privity, since the time of such return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment.” As certain illegal practices (e.g., excess of the maxi-

S 40.

respecting election expenses by the member to whose election the petition relates and his election agent.

(b.) If the election petition specifically alleges a payment of money, or some other act to have been made or done since the said day by the member or an agent of the member, or with the privity of the member or his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented at any time within twenty-eight days after the date of such payment or other act.

31 & 32 Vict.
c. 125.

(2.) Any election petition presented within the time limited by the Parliamentary Elections Act, 1868, may for the purpose of questioning the return or the election upon an allegation of an illegal practice be amended with the leave of the High Court within the time within which a petition questioning the return upon the allegation of that illegal practice can under this section be presented.

(3.) This section shall apply in the case of an offence relating to the return and declarations respecting election expenses in like manner as if it were an illegal practice, and also shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice.

(4.) For the purposes of this section—

(a.) where the return and declarations are received on different days, the day on which the last of them is received, and

(b.) where there is an authorised excuse for failing to make and transmit the return and declar-

mum scale of expenditure and offences in respect of the return and declarations) cannot be known until after the publication of the return of election expenses, it is necessary to allow a longer period for petitioning on account of such practices than the twenty-one days, which will still be the limit of time allowed for petitions grounded on corrupt practices.

Subsection (1) (a).—The limit of time for petitioning fixed by this clause will be at most fifty or fifty-one days [*i.e.*, thirty-five days counting Sundays, s. 33 (1), and fourteen days not counting Sundays, s. 40 (5)] from the day of the declaration of the poll. As the fourteen days run from the time when the return of expenses is made, it will clearly be the interest of the member who wishes to feel his seat secure to make his return of expenses with as little delay as possible.

(b.) This exactly follows the latter part of s. 6 of the Parliamentary Elections Act quoted above.

Sub-section (2).—Under the Parliamentary Elections Act a petition could not be amended after the twenty-one days by the introduction of a substantially new charge (*Maude v. Lowley*, L. R. 9 C. P. 165; *cf. Aldridge v. Hunt*, 1 C. P. D. 410).

The High Court.—See note to s. 56.

Within the time, &c.—This refers to both (a) and (b) of sub-s. (1).

Sub-section (3). An offence relating to the return.—*i.e.*, any offence under s. 33, including a false declaration, which is made a corrupt practice by s. 33 (7), but which under this section is to be treated as an illegal practice.

Sub-section (4). On different days.—See s. 33 (4), (5).

§ 40.

ations respecting election expenses, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse, shall be substituted for the day on which the return and declarations are received by the returning officer.

(5.) For the purposes of this section time shall be reckoned in like manner as it is reckoned for the pur-
81 & 82 Vict. c. 125.

§ 41.
Withdrawal
of election
petition.

41. (1.) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits by all the parties to the petition and their solicitors, and by the election agents of all of the said parties who were candidates at the election, but the High Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

(2.) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition ; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3.) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.

(4.) If any person makes any agreement or terms, or

The date of the allowance of the excuse.—See s. 34 (4).

Shall be substituted for the day on which, &c.—See sub-s. (1), (a).

Sub-section (5).—The effect of this is that Sunday, Christmas-day, Good Friday, and public fast and thanksgiving days are not to be reckoned in the days allowed for petition.—See s. 49 of the Parliamentary Elections Act, 1868, App. p. 210.

Note to Section 41.

This section is an amendment of ss. 35 and 36 of the Parliamentary Elections Act, 1868 (Appendix, p. 207). It is aimed at the collusive withdrawals of petitions which were not uncommon under the former law. It renders such collusion more difficult by obliging under heavy penalties (sub-s. (4)) not only the candidates and their agents, but all solicitors concerned in the petition (sub-s. (8)), to make affidavits setting forth any agreement or terms, lawful or unlawful (sub-s. (2)), on which the petition is withdrawn.

The Director of Public Prosecutions is also allowed to intervene and bring evidence to stop collusive withdrawals (sub-s. (5)).

*Sub-section (1). The High Court.—*This jurisdiction is to be exercised by one of the election judges or a master, in accordance with Rules of Court made as provided by s. 56 (2). But every application for the withdrawal of a petition must still be heard by two election judges (42 & 43 Vict. c. 75, s. (2)).

*Sub-section (2).—*Under the Parliamentary Elections Act, 1868, the form of affidavit required was a positive denial that the withdrawal was "the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition" (see *Johnson v. Rankin*, 5 C. P. D. 553).

§ 41. enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms, or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat shall at any time be vacated, or in consideration of the withdrawal of any other election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanor, and shall be liable on conviction on indictment to imprisonment for a term not exceeding twelve months, and to a fine not exceeding two hundred pounds.

(5.) Copies of the said affidavits shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the Court may hear the Director of Public Prosecutions or his assistant or other representative (appointed with the approval of the Attorney-General), in opposition to the allowance of the withdrawal of the petition, and shall have power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his assistant or other representative may consider material.

(6.) Where in the opinion of the court the proposed withdrawal of a petition was the result of any agreement, terms, or undertaking prohibited by this section, the court shall have the same power with respect to the security as under section thirty-five of the Parliamentary Elections Act, 1868, where the withdrawal is induced by a corrupt consideration.

(7.) In every case of the withdrawal of an election petition the court shall report to the Speaker whether,

Sub-section (4).—“Payment” includes “any pecuniary or other reward” (s. 64).

The penalty is new.

Sub-section (5).—This is wholly new.

The Director of Public Prosecutions.—See s. 57 and 42 & 43 Vict. c. 22.

Only a person who might have been a petitioner in respect of the election to which the election relates can apply to be substituted for the petitioner withdrawing (Parliamentary Elections Act, 1868, s. 35).

Sub-section (6).—The same power with respect to the security, i.e., to direct by order that the security given on behalf of the original petitioner shall remain as security for any costs to be incurred by the substituted petitioner (s. 35 of Parliamentary Elections Act, cf. s. 6).

Sub-section (7) incorporates s. 36 of the Parliamentary Elections Act, repealed by this Act.

§ 41. in the opinion of such court, the withdrawal of such petition was the result of any agreement, terms, or undertaking, or was in consideration of any payment, or in consideration that the seat should at any time be vacated, or in consideration of the withdrawal of any other election petition, or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

(8.) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

(9.) Where a person not a solicitor is lawfully acting as agent in the case of an election petition, that agent shall be deemed to be a solicitor for the purpose of making an affidavit in pursuance of this section.

§ 42.

Continuation of trial of election petition.

42. The trial of every election petition so far as is practicable, consistently with the interests of justice in respect of such trial, shall be continued de die in diem on every lawful day until its conclusion, and in case the rota of judges for the year shall expire before the conclusion of the trial, or of all the proceedings in relation or incidental to the petition, the authority of the said judges shall continue for the purpose of the said trial and proceedings.

§ 43.

Attendance of Director of Public Prosecutions on trial of election petition,

43. (1.) On every trial of an election petition the Director of Public Prosecutions shall by himself or by his assistant, or by such representative as hereinafter mentioned, attend at the trial, and it shall be the duty of such Director to obey any directions given to him by

Sub-section (9). "Person not a solicitor."—*I.e.*, a parliamentary agent practising in 1868, whose rights were saved by s. 57 of the Parliamentary Elections Act.

Note to Section 42.

This section was added in the Committee of the House of Commons to ensure greater speed and economy in the trial of election petitions.

Under s. 11 (12) of the Parliamentary Elections Act, the judges trying a petition have power to adjourn "from time to time." The latter part of the section is only declaratory of what is at present the law. (See 44 & 45 Vict. c. 68, s. 13.)

Note to Section 43.

This section is new, and is intended to secure as far as possible the speedy prosecution and trial of all persons who, on the hearing of an election petition, appear to the Court guilty of corrupt or illegal practices.

The only existing enactment bearing on this section is a. 32 of

§ 43.
and prosecu-
tion by
him of
offenders.

the Election Court with respect to the summoning and examination of any witness to give evidence on such trial, and with respect to the prosecution by him of offenders, and with respect to any person to whom notice is given to attend with a view to report him as guilty of any corrupt or illegal practice.

(2.) It shall also be the duty of such Director, without any direction from the Election Court, if it appears to him that any person is able to give material evidence as to the subject of the trial, to cause such person to attend the trial, and with the leave of the court to examine such person as a witness.

(3.) It shall also be the duty of the said Director, without any direction from the Election Court, if it appears to him that any person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice, to prosecute such person for the offence before the said court, or if he thinks it expedient in the interests of justice before any other competent court.

(4.) Where a person is prosecuted before an Election Court for any corrupt or illegal practice, and such person appears before the court, the court shall proceed to try him summarily for the said offence, and such person, if convicted thereof upon such trial, shall be subject to the same incapacities as he is rendered subject to under this Act upon conviction, whether on indictment or in any other proceeding for the said offence ; and further, may be adjudged by the court, if the offence is a corrupt practice, to be imprisoned, with or without hard labour, for a term not exceeding six months, or to pay a fine not exceeding two hundred pounds, and if the offence is

the Parliamentary Elections Act 1868, which authorises the judge trying a petition to compel the attendance of any person who appears to him to have been concerned in the election to which the petition refers, and to examine such person as a witness, although not called and examined by any party to the petition. After such examination by a judge the witness may be cross-examined by both parties to the petition.

Sub-section (1). Director of Public Prosecutions.—See ss. 45, 57. Ss. 3, 4, of the Act 42 & 43 Vict. c. 22, provide that this officer and his assistants (not exceeding six) are to be either barristers or solicitors in actual practice, in the case of the Director of not less than ten years', and in that of an assistant not less than seven years' standing.

By such representative.—See sub-s. (7), below.

Notice is given, under s. 38 (1).

Sub-section (2). With the leave of the Court.—In some cases the Court may refuse to allow persons to be examined, on the ground that they ought not to escape punishment by entitling themselves to receive a certificate of indemnity (see s. 59).

Sub-section (3). Corrupt or illegal practice.—This section does not extend to the minor offences of illegal payments, &c., but these offences may amount to illegal practices if committed by a candidate or election agent personally (s. 21).

Other competent Court.—*I.e.*, in the case of corrupt practices, Assizes, or the Central Criminal Court (s. 50), not Quarter Sessions (s. 53 and s. 10 of Corrupt Practices Act, 1854).

Sub-section (4). The Court shall proceed.—Except in cases provided for by sub-s. (5). As to the procedure on such trial, see s. 55 (1).

Same incapacities.—See ss. 6 (3), (4), and 10.

If the offence is a corrupt practice.—The punishment here mentioned is substituted for that in s. 6 (1), (2).

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an illegal practice, to pay such fine as is fixed by this Act for the offence ;

Provided that, in the case of a corrupt practice, the court, before proceeding to try summarily any person, shall give such person the option of being tried by a jury.

(5.) Where a person is so prosecuted for any such offence, and either he elects to be tried by a jury or he does not appear before the court, or the court thinks it in the interests of justice expedient that he should be tried before some other court, the court, if of opinion that the evidence is sufficient to put the said person upon his trial for the offence, shall order such person to be prosecuted on indictment or before a court of summary jurisdiction, as the case may require, for the said offence ; and in either case may order him to be prosecuted before such court as may be named in the order ; and for all purposes preliminary to and of and incidental to such prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.

(6.) Upon such order being made,

(a.) if the accused person is present before the court, and the offence is an indictable offence, the court shall commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence ; and

(b.) if the accused person is present before the court, and the offence is not an indictable offence, the court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted, or

As is fixed by this Act.—I.e., £100 (see s. 10).

Sub-section (5). Before some other Court.—In some cases change of venue may be expedient on account of local feeling or for other reasons (*cf.* s. 50).

Sub-section (6) (a). As to procedure in this case, see s. 55 (2).

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cause him to give bail to appear before that court ; and

(c.) if the accused person is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him, before a court of summary jurisdiction, and that court, if the offence is an indictable offence, shall, on proof only of the summons or warrant and the identity of the accused, commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence, or if the offence is punishable on summary conviction, shall proceed to hear the case, or if such court be not the court before whom he is directed to be prosecuted, shall order him to be brought before that court.

(7.) The Director of Public Prosecutions may nominate, with the approval of the Attorney-General, a barrister or solicitor of not less than ten years standing to be his representative for the purpose of this section, and that representative shall receive such remuneration as the Commissioners of Her Majesty's Treasury may approve. There shall be allowed to the Director and his assistant or representative, for the purposes of this section, such allowance for expenses as the Commissioners of Her Majesty's Treasury may approve.

(8.) The costs incurred in defraying the expenses of the Director of Public Prosecutions under this section (including the remuneration of his representative) shall, in the first instance, be paid by the Commissioners of

Sub-section (8).—For any reasonable cause, e.g., if the Director of Public Prosecutions calls witnesses at, or otherwise assists in, the hearing of the petition (cf. next section).

§ 43.

Her Majesty's Treasury, and so far as they are not in the case of any prosecution paid by the defendant shall be deemed to be expenses of the Election Court; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of the said costs to be repaid to the Commissioners of Her Majesty's Treasury by the parties to the petition, or such of them as the court may direct.

§ 44.

Power to
Electio
Court to
order pay-
ment by
county or
borough
or individ-
ual of costs
of election
petition.

44. (1.) Where upon the trial of an election petition respecting an election for a county or borough it appears to the Election Court that a corrupt practice has not been proved to have been committed in reference to such election by or with the knowledge and consent of the respondent to the petition, and that such respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as follows :

(a.) if it appears to the court that corrupt practices extensively prevailed in reference to the said election, the court may order the whole or part of the costs to be paid by the county or borough ; and

(b.) if it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to such election, the court may, after giving such person

Note to Section 44.

This section is new and amends s. 41 of the Parliamentary Elections Act 1868, which provides that the costs of a petition "shall be defrayed by the parties to the petition in such manner and in such proportion as the Court may determine." The present section is intended to relieve the parties to the petition when innocent, and to throw the burden of the costs either on a corrupt constituency or on certain guilty individuals.

The costs of the petition.—The costs here mentioned are "the costs, charges, and expenses" (see definition of "costs," s. 64), provided for by s. 41 of the Parliamentary Elections Act, and do not include the judges' travelling and other expenses, or the expenses incurred in receiving, accommodating, and attending on the judges, which under ss. 28, 30 of the Parliamentary Elections Act, are to be paid by the Treasury.

§ 44.

or persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person or those persons or any of them, and may order that if the costs cannot be recovered from one or more of such persons they shall be paid by some other of such persons or by either of the parties to the petition.

(2.) Where any person appears to the court to have been guilty of the offence of a corrupt or illegal practice, the court may, after giving such person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or to the said person to be paid by the said person.

(3.) The rules and regulations of the Supreme Court of Judicature with respect to costs to be allowed in actions, causes, and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under the Parliamentary Elections Act, 1868, and under this Act, and the taxing officer shall not allow any costs, charges, or expenses on a higher scale than would be allowed in any action, cause, or matter in the High Court on the higher scale, as between solicitor and client.

*Miscellaneous.***§ 45.**

45. Where information is given to the Director of Public Prosecutions that any corrupt or illegal practices

Inquiry by

Sub-section (1).—Opportunity of being heard.

Sub-section (2). Opportunity of making a statement.—As to service of notice in these cases, see s. 62 (2).

*Costs of or incidental to any proceeding before the Court.—*These costs may include both those of a party to the petition and those of the Director of Public Prosecution acting under s. 43. Cf. ss. 57 (2), 58 (2).

*Sub-section (3).—*Hitherto these costs have been taxed subject to Rules of Court, but according to the same principles as costs between attorney and client are taxed in a suit in the Chancery Division (s. 41 of the Parliamentary Elections Act 1868). Under the New Rules (1883) the same scales of costs are applicable to both the Chancery and Queen's Bench Divisions. As to recovery of these costs, see s. 41 of the Parliamentary Elections Act.

Note to Section 45.

This section is new, and supplements s. 43 by providing for the due prosecutions of offences in cases where there has not been a petition.

Subject to the regulations, &c.—See note to s. 57.

§ 45.

Director
of public
prosecu-
tions into
alleged
corrupt or
illegal
practices.

have prevailed in reference to any election, it shall be his duty, subject to the regulations under the Prosecution of Offences Act, 1879, to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.

§ 46.

Removal of
incapacity
on proof
that it was
procured
by perjury.

Where a person has, either before or after the commencement of this Act, become subject to any incapacity under the Corrupt Practices Prevention Acts or this Act by reason of a conviction or of a report of any Election Court or Election Commissioners, and any witness who gave evidence against such incapacitated person upon the proceeding for such conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the Court, if satisfied that the conviction or report so far as respects such person was based upon perjury, may order that such incapacity shall thenceforth cease, and the same shall cease accordingly.

§ 47.

Amendment
of law as to
polling dis-
tricts and
polling
places.

(1.) Every county shall be divided into polling districts, and a polling place shall be assigned to each district in such manner that, so far as is reasonably practicable, every elector resident in the county shall have his polling place within a distance not exceeding three miles from his residence, so nevertheless that a polling district need not in any case be constituted containing less than one hundred electors.

(2.) In every county the local authority who have power to divide that county into polling districts shall from time to time divide the county into polling dis-

Note to Section 46.

This section re-enacts s. 47 of the Parliamentary Elections Act 1868, extending it to persons disqualified by any of the Corrupt Practice Prevention Acts (s. 65), and omitting the condition that the conviction for perjury was obtained on the prosecution of the disqualified person.

Note to Section 47.

This section amends the former law as to polling-districts (R. P. Act, s. 34, 31 & 32 Vict. c. 58, s. 18, and Ballot Act, s. 5).

Though not strictly germane to the present Act, it is in fact consequential on ss. 7, 14. The conveyance of voters to the poll being to a great extent prohibited, it was necessary to give the voter more facilities for polling.

This section will not apply to either Scotland or Ireland (ss. 68 (2), 69 (9), but see the special provision as to Galway).

Sub-sections (1) and (2).—These apply to counties, and re-enact the former law with the substitution in sub-s. (1) of 3 miles for 4 miles (Ballot Act, s. 5).

Sub-section 2.—*The local authority* in a “county” (i.e. a parliamentary county or division) are the Justices in Quarter Sessions

§ 47.

tricts, and assign polling places to those districts, and alter those districts and polling places in such manner as may be necessary for the purpose of carrying into effect this section.

(3.) The power of dividing a borough into polling districts vested in a local authority by the Representation of the People Act, 1867, and the enactments amending the same, may be exercised by such local authority from time to time, and as often as the authority think fit, and the said power shall be deemed to include the power of altering any polling district, and the said local authority shall from time to time, where necessary for the purpose of carrying this section into effect, divide the borough into polling districts in such manner that—

(a.) Every elector resident in the borough, if other than one hereinafter mentioned, shall be enabled to poll within a distance not exceeding one mile from his residence, so nevertheless that a polling district need not be constituted containing less than three hundred electors ; and

(b.) Every elector resident in the boroughs of East Retford, Shoreham, Cricklade, Much Wenlock, and Aylesbury, shall be enabled to poll within a distance not exceeding three miles from his residence, so nevertheless that a polling district need not be constituted containing less than one hundred electors.

35 & 36 Vict.
c. 33.

(4.) So much of section five of the Ballot Act, 1872, and the enactments amending the same as in force and is

having jurisdiction over that "county" or the larger portion of it (Representation of the People Act, s. 34).

"*Polling place*."—There may be at a polling-place as many polling stations as the returning officer thinks sufficient. (Ballot Act, Schedule I., rule 16, but "polling place" has a different meaning when applied to boroughs, see rule 57.)

Sub-section (3).—This makes it for the first time obligatory on the local authority of a borough to divide their borough into polling-districts. Under the Ballot Act, s. 5, local authorities of boroughs were directed to make this division only "if they think it desirable," and accordingly about forty English boroughs, some of considerable size, have never been divided into polling districts. The conditions laid down in the present sub-section will not necessitate the division of any borough, where there is no group of as many as 300 electors more than one mile from the polling station assigned to them.

The local authority in a borough are—

- (a.) In a municipal borough, or in a parliamentary borough any part of which forms a municipal borough, the town council (Representation of the People Act, s. 34).
- (b.) Where a parliamentary borough is constituted by the combination of a municipal borough and other places, whether municipal boroughs or not, the town council of the municipal borough in which the nomination takes place (Representation of the People Act, s. 34; Ballot Act, c. 33, s. 5).
- (c.) Where there is no town council under the above provisions, the justices of the peace, namely—
 - (i.) If the borough is wholly in one petty sessional division, the justices of that division:
 - (ii.) In any other case, the justices in general or Quarter Sessions within whose jurisdiction the borough, or the largest part thereof in area, is situate (31 & 32 Vict. c. 58, s. 18; Ballot Act, s. 5).

Divide the borough into polling districts.—Where this is not done, the returning officer need not (and probably cannot legally) provide polling stations at more than one place in the borough. In boroughs which have been divided, the returning officer must provide "at least one polling station in each polling district" (Representation of the People Act, s. 34).

East Retford, &c.—These five agricultural boroughs are here as elsewhere treated as counties. (See 2 Will. IV. c. 45, s. 34, R. P. Act, s. 36, 38 & 39 Vict. c. 84, Sched. I., and Sched. I. Pt. I. (8), Pt. V. (1) below).

§ 47.

not repealed by this Act, shall apply as if the same were incorporated in this section.

(5.) The expenses incurred by the local authority of a county or borough under this or any other Act in dividing their county or borough into polling districts, and, in the case of a county, assigning polling places to such districts, and in altering any such districts or polling places, shall be defrayed in like manner as if they were expenses incurred by the registration officer in the execution of the enactments respecting the registration of electors in such county or borough, and those enactments, so far as is consistent with the tenor thereof, shall apply accordingly.

Sub-section (4).—The enactments here incorporated are the provisions as to a borough local authority quoted above, and also the following:

- (a.) Every local authority who makes an order after 1873, with respect to polling districts or polling places in their county or borough, is to send a copy of such order to the Home Secretary, to be laid by him before both Houses of Parliament.
- (b.) Any such order is to “apply only to lists of voters made subsequently to its date, and to registers of voters formed out of such lists, and to elections held after the time at which a register of voters so formed has come into force,” but any order made between July 1 and November 1, in any year (not creating a new division of any poor law parish between two or more polling districts) is to apply to the register of voters coming into force next after the making of the order (*i.e.* on the 1st of January next), and to elections held on that register. Thus, if the new orders are to apply to the elections of 1884, they must be made between the 15th of October (s. 17) and the 1st of November, 1883, and must not make new divisions of parishes.
- (c.) The lists of voters are to be copied, printed, and arranged by polling districts in accordance with any new orders (see as to boroughs, 41 & 42 Vict. c. 26, s. 15 (8)).
- (d.) No election is to be questioned by reason of any non-compliance with this section, or any informality relative to polling districts or polling places. The local authority, however, neglecting their duties under this section will render themselves liable to a mandamus, and possibly to an action.

Sub-section (5).—This is new.

The expenses of making enquiries, advertising, &c. (Representation of the People Act, s. 34), have, it is presumed, hitherto been paid as part of the ordinary expenses of the local authority.

Expenses incurred by the registration officer.—These are paid in a county out of the county rate. In a borough they are paid out of the poor rate, being apportioned among the parishes in proportion to the number of electors in each parish (6 Vict. c. 18, ss. 54, 55).

§ 48.

Conveyance
of voters by
sea in cer-
tain cases.

48. Where the nature of a county is such that any electors residing therein are unable at an election for such county to reach their polling place without crossing the sea or a branch or arm thereof, this Act shall not prevent the provision of means for conveying such electors by sea to their polling place, and the amount of payment for such means of conveyance may be in addition to the maximum amount of expenses allowed by this Act.

§ 49.

Election
commis-
sioners not
to inquire
into elec-
tions before
the passing
of this Act.

49. Notwithstanding the provisions of the Act 15 & 16 Vict. cap. 57, or any amendment thereof, in any case where, after the passing of this Act, any commissioners have been appointed, on a joint address of both Houses of Parliament, for the purpose of making inquiry into the existence of corrupt practices in any election, the said commissioners shall not make inquiries concerning any election that shall have taken place prior to the passing of this Act, and no witness called before such commissioners, or at any election petition after the passing of this Act, shall be liable to be asked or bound to answer any question for the purpose of proving the commission of any corrupt practice at or in relation to any election prior to the passing of this Act: Provided that nothing herein contained shall affect any proceedings that shall be pending at the time of such passing.

*Legal Proceedings.***§ 50.**

Trial in
Central
Criminal

50. Where an indictment as defined by this Act for any offence under the Corrupt Practices Prevention Acts or this Act is instituted in the High Court or is

Note to Section 48.

This section forms the only exception from the provisions of the Act prohibiting payment for the conveyance of voters to the poll (see ss. 7, 14). It does not apply to out-voters, but only to voters residing within their county and separated by the sea from their polling-place. Thus, electors living on an island and having to poll on the mainland opposite, may be conveyed across in a steam-boat, &c., at the expense of the candidate. All payments for such conveyances must be duly made and returned by the election agent (ss. 29, 33), but need not be included within the maximum amount allowed by Sched. I. Pt. IV.

Note to Section 49.

This section was inserted in Committee of the House of Commons to effect an amnesty for electoral offences in the past, and thus give corrupt constituencies a further inducement to amend their ways under the new law, and enable persons who desire purity of election to petition without fear of old practices being raked up so as to disfranchise the constituency. Except for this section, the Commissioners have power to enquire back "as far as they think fit," until they come to a pure (or uncontested) election (see note to s. 12).

*For the purpose of proving the commission, &c.—*With this limitation, this section will not prevent questions being asked for other purposes, e.g. in order to discredit a witness.

Note to Section 50.

This section (which does not apply to Scotland or Ireland) is intended to facilitate the trial of indictments and criminal informations for corrupt practices by providing for their removal to the Central Criminal Court.

§ 50.

Court of
indictment
for corrupt
practice at
instance of
Attorney-
General.

removed into the High Court by a writ of certiorari issued at the instance of the Attorney-General, and the Attorney-General suggests on the part of the Crown that it is expedient for the purposes of justice that the indictment should be tried in the Central Criminal Court, or if a special jury is ordered, that it should be tried before a judge and jury at the Royal Courts of Justice, the High Court may, if it think fit, order that such indictment shall be so tried upon such terms as the Court may think just, and the High Court may make such orders as appear to the Court necessary or proper for carrying into effect the order for such trial.

§ 51.

Limitation
of time for
prosecution
of offence.

51. (1.) A proceeding against a person in respect of the offence of a corrupt or illegal practice or any other offence under the Corrupt Practices Prevention Acts or this Act shall be commenced within one year after the offence was committed, or if it was committed in reference to an election with respect to which an inquiry is held by election commissioners shall be commenced within one year after the offence was committed, or within three months after the report of such commissioners is made, whichever period last expires, so that it be commenced within two years after the offence was committed, and the time so limited by this section shall, in the case of any proceeding under the Summary Jurisdiction Acts for any such offence, whether before an election court or otherwise, be substituted for any limitation of time contained in the last-mentioned Acts.

(2.) For the purposes of this section the issue of a

It is new so far as it extends the provisions of the Palmer Act (19 & 20 Vict. c. 16), which empowered the Court of Queen's Bench in its discretion to order that any indictment removed into that Court by *certiorari* should be tried in the Central Criminal Court, and provided for the regulation of such trials, payments of witnesses, expenses, &c. That Act did not, however, apply either to criminal informations or indictments originally instituted in the High Court.

The present section supplies these deficiencies, with an additional provision for special juries.

Indictment as defined by Act includes criminal information (see s. 64).

Writ of certiorari.—This is demandable of absolute right by the Attorney General on behalf of the Crown.

And the Attorney General suggests.—This prevents the section being made use of by a private prosecutor.

At the Royal Courts of Justice.—There is no machinery for summoning special juries to the Central Criminal Court. This provision is therefore required to save the rights of a defendant in a criminal information to be tried by a special jury. It also prevents a defendant whose indictment is removed losing the power to obtain a special jury if the Court think the case ought not to be tried locally at the Assizes.

Upon such terms, &c.—The concluding words of the section are intended to empower the Court to deal with any difficulties of procedure that may occur in removing informations to the Central Criminal Court.

Note to Section 51.

This section re-enacts the former law as to limitation of time for prosecutions (Corrupt Practices Act, 1854, s. 14, Corrupt Practices Act, 1863, s. 5), with a new extension of time when there is an inquiry by election commissioners.

Under the Corrupt Practices Prevention Acts.—See s. 65 (1).

The only proceeding not taken under this Act to which this section can apply would seem to be actions for penalties under s. 7 of the Corrupt Practices Act, 1854, and prosecutions under the penal sections of the Representation of the People Acts (Appendix, p. 216).

§ 51.

summons, warrant, writ, or other process shall be deemed to be a commencement of a proceeding, where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, but save as aforesaid the service or execution of the same on or against the alleged offender, and not the issue thereof, shall be deemed to be the commencement of the proceeding.

§ 52.

Persons charged with corrupt practice may be found guilty of illegal practice.

Any person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice, (which offence shall for that purpose be an indictable offence,) and any person charged with an illegal practice may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt practice, and a person charged with illegal payment, employment, or hiring, may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

§ 53.

Application of enactments of 17 & 18 Vict. c. 102, and 26 & 27 Vict. c. 29, relating to prosecutions for bribery.

17 & 18 Vict. c. 102.
26 & 27 Vict. c. 29.

(1.) Sections ten, twelve, and thirteen of the Corrupt Practices Prevention Act, 1854, and section six of the Corrupt Practices Prevention Act, 1863 (which relate to prosecutions for bribery and other offences under those Acts), shall extend to any prosecution on indictment for the offence of any corrupt practice within the meaning of this Act, and to any action for any pecuniary forfeiture for an offence under this Act, in like manner as if such offence were bribery within the meaning of those Acts, and such indictment or action were the indictment or action in those sections men-

Note to Section 52.

This section is new, and is intended to prevent the escape of a guilty person who has not been charged with the right offence. For similar provisions see 14 & 15 Vict. c. 100, ss. 9, 12; 24 & 25 Vict. c. 96, s. 72.

A corrupt practice is an indictable offence (s. 6), but may be tried summarily by an Election Court, s. 43 (4).

Illegal practices, &c., are always punishable summarily (ss. 10, 21, 43 (4)).

Note to Section 53.

This section applies to legal proceedings under this Act certain provisions of the Corrupt Practices Acts 1854 and 1863, which relate to the payment and recovery of costs, the framing of indictments for bribery, &c., to such indictments not being triable at Quarter Sessions, and to the evidence of elections having been held. See these sections, Appendix, pp. 198, 199.

Sub-section (1). Corrupt practice within the meaning of this Act.—See s. 3.

Any action . . . under this Act.—See s. 33 (5).

§ 53.

tioned, and an order under the said section ten may be made on the defendant ; but the Director of public prosecutions or any person instituting any prosecution in his behalf or by direction of an election court shall not be deemed to be a private prosecutor, nor required under the said sections to give any security.

(2.) On any prosecution under this Act, whether on indictment or summarily, and whether before an election court or otherwise, and in any action for a pecuniary forfeiture under this Act, the person prosecuted or sued, and the husband or wife of such person, may, if he or she think fit, be examined as an ordinary witness in the case.

(3.) On any such prosecution or action as aforesaid it shall be sufficient to allege that the person charged was guilty of an illegal practice, payment, employment, or hiring within the meaning of this Act, as the case may be, and the certificate of the returning officer at an election that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at such election, shall be sufficient evidence of the facts therein stated.

§ 54.

Prosecution
on summary
conviction,
and appeal
to quarter
sessions.

54. (1.) All offences under this Act punishable on summary conviction may be prosecuted in manner provided by the Summary Jurisdiction Acts.

(2.) A person aggrieved by a conviction by a court of summary jurisdiction for an offence under this Act may appeal to general or quarter sessions against such conviction.

Order under the said section ten.—I.e., for payment of the prosecutor's costs.

Sub-section (2) re-enacts s. 35 of the Corrupt Practices Act, 1854 (Appendix, p. 198), with the important modification that the persons mentioned are only “competent,” and no longer “compellable” to give evidence.

Sub-section (3) extends s. 6 of the Corrupt Practices Act, 1863, to illegal practices, &c. The principal effect of this extension, and the application of that section by sub-s. (1) above, is that in prosecutions it will be sufficient to indict for “bribery,” “treating,” “illegal practice,” &c., generally, without alleging the specific offence, so that if one instance of the offence is not proved another may be under the same count or statement of claim.

Note to Section 54.

This and the following sections incorporate all the provisions of the Summary Jurisdiction Acts (1848 to 1879) as to procedure before justices, and on appeal to Quarter Sessions.

Offences punishable on summary conviction.—See ss. 10, 21, 43 (4).

§ 55.

*Application
of Summary
Jurisdiction
and Indict-
able Offences
Acts to
proceedings
before Elec-
tion Courts.*

55. (1.) Except that nothing in this Act shall authorise any appeal against a summary conviction by an Election Court, the Summary Jurisdiction Acts shall, so far as is consistent with the tenor thereof, apply to the prosecution of an offence summarily before an Election Court, in like manner as if it were an offence punishable only on summary conviction, and accordingly the attendance of any person may be enforced, the case heard and determined and any summary conviction by such court be carried into effect and enforced, and the costs thereof paid, and the record thereof dealt with under those Acts in like manner as if the court were a petty sessional court for the county or place in which such conviction took place.

(2.) The enactments relating to charges before justices against persons for indictable offences shall, so far as is consistent with the tenor thereof, apply to every case where an Election Court orders a person to be prosecuted on indictment in like manner as if the court were a justice of the peace.

§ 56.

*Exercise of
jurisdiction
of High
Court, and
making of
rules of
court.*

56. (1.) Subject to any rules of court, any jurisdiction vested by this Act in the High Court may, so far as it relates to indictments or other criminal proceedings, be exercised by any judge of the Queen's Bench Division, and in other respects may either be exercised by one of the judges for the time being on the rota for the trial of election petitions, sitting either in court or at chambers, or may be exercised by a master of the Supreme Court of Judicature in manner directed by and subject to an appeal to the said judges :

Provided that a master shall not exercise jurisdiction

Note to Section 55.

Sub-section (1). Summary conviction by an Election Court.—See 43 (4).

And the record thereof dealt with.—I.e., lodged with the Clerk of the Peace, and filed among the records of the Court of Quarter Sessions, and so made capable of proof (11 & 12 Vict. c. 43, s. 14).

*Sub-section (2).—The enactments referred to are 11 & 12 Vict. c. 42, as amended by 30 & 31 Vict. c. 35, and 42 & 43 Vict. c. 49.
An Election Court orders.—See s. 43 (5), (6).*

Note to Section 56.

Sub-section (1). Rules of Court.—See sub-s. (2).

Vested by this Act in the High Court.—See ss. 23, 29 (9), 34, 40 (2), 41 (1), 44, 46.

An application for withdrawal of an election petition made under s. 35 of the Parliamentary Elections Act, 1868, amended by s. 40 of this Act, must still be heard by two judges on the election rota (42 & 43 Vict. c. 75, s. 2), but leave to amend an election petition, or to dispense with an affidavit, may be given by one judge under ss. 40 (2), 41 (1).

The said judges.—I.e. those on the election rota.

§ 56.

in the case either of an order declaring any act or omission to be an exception from the provisions of this Act with respect to illegal practices, payments, employments, or hirings, or of an order allowing an excuse in relation to a return or declaration respecting election expenses.

(2.) Rules of court may from time to time be made, revoked, and altered for the purposes of this Act, and of the Parliamentary Elections Act, 1868, and the Acts amending the same, by the same authority by whom rules of court for procedure and practice in the Supreme Court of Judicature can for the time being be made.

§ 57.

Director
of public
prosecu-
tions, and
expenses of
prosecu-
tions.
42 & 43 Vict.
c. 22.

57. (1.) The Director of Public Prosecutions in performing any duty under this Act shall act in accordance with the regulations under the Prosecution of Offences Act, 1879, and subject thereto in accordance with the directions (if any) given to him by the Attorney-General ; and any assistant or representative of the Director of Public Prosecutions in performing any duty under this Act shall act in accordance with the said regulations and directions, if any, and with the directions given to him by the Director of Public Prosecutions.

(2.) Subject to the provisions of this Act, the costs of any prosecution on indictment for an offence punishable under this Act, whether by the Director of Public Prosecutions or his representative or by any other person, shall, so far as they are not paid by the defendant, be paid in like manner as costs in the case of a prosecution for felony are paid.

An order declaring an exception.—See s. 23.

An order allowing an excuse.—See s. 34.

Sub-section (2).—This removes a doubt as to whether the power of making rules given to the judges on the election rota by the Parliamentary Elections Act, s. 25, was not superseded by the Judicature Acts. For the authority by whom rules will now be made, see 38 & 39 Vict. c. 77, s. 17; 39 & 40 Vict. c. 59, s. 17; 42 & 43 Vict. c. 78, s. 22.

As to rules for taxation of costs in election petitions, see s. 44 (3).

Note to Section 57.

Sub-section (1).—As to duties of the Director under this Act, see ss. 38, 41 (5), 43, 45. The regulations made under 42 & 43 Vict. c. 22, have been published as a Parliamentary Paper (No. 177 of 1883).

Assistant or representative.—See ss. 41 (5), 43 (7).

Sub-section (2). Subject to the provisions of this Act.—The expenses of the Director of Public Prosecutions in prosecutions before an Election Court are (except where ordered to be paid by a party to the petition) to be paid by the Treasury direct (s. 43 (8)).

So far as they are not paid by the defendant.—See s. 44 (2).

In like manner as, &c.—The prosecutor's costs in cases of felony, when allowed by the Court are paid by the county or borough treasurer (7 Geo. IV., c. 64, ss. 22, 25; 45 & 46 Vict. c. 50, s. 169) and repaid to the county or borough rate by the Treasury out of money annually voted by Parliament.

§ 58

Recovery of costs payable by county or borough or by person.
32 & 33 Vict. c. 21.
34 & 35 Vict. c. 61.

58. (1.) Where any costs or other sums (not being costs of a prosecution on indictment) are, under an order of an Election Court, or otherwise under this Act, to be paid by a county or borough, the Commissioners of Her Majesty's Treasury shall pay those costs or sums, and obtain repayment of the amount so paid, in like manner as if such costs and sums were expenses of election commissioners paid by them, and the Election Commissioners Expenses Acts, 1869 and 1871, shall apply accordingly as if they were herein re-enacted and in terms made applicable to the above-mentioned costs and sums.

(2.) Where any costs or other sums are, under the order of an Election Court or otherwise under this Act, to be paid by any person, those costs shall be a simple contract debt due from such person to the person or persons to whom they are to be paid, and if payable to the Commissioners of Her Majesty's Treasury shall be a debt to Her Majesty, and in either case may be recovered accordingly.

Supplemental Provisions, Definitions, Savings, and Repeal.

§ 59.

Obligation of witness to answer, and certificate of indemnity.

59. (1.) A person who is called as a witness respecting an election before any Election Court shall not be excused from answering any question relating to any offence at or connected with such election, on the ground that the answer thereto may criminate or tend to criminate himself or on the ground of privilege;

Provided that—

(a.) a witness who answers truly all questions which he is required by the Election Court

Note to Section 58.

Sub-section (1). Not being costs of a prosecution.—These are provided for by s. 57 (2).

Under an order of an Election Court.—See s. 44 (1) (a).

Or otherwise.—This can only refer to the extension of the Election Commissioners Act, effected by s. 12.

Expenses of Election Commissioners.—These are raised in England by requisition from the Treasury to the county treasurer or town clerk, and are raised in counties by an addition to the county rate, and in boroughs by contributions out of the poor rate of the parishes in the borough made in proportion to the number of electors in each parish. There are corresponding provisions for Scotland and Ireland (see 31 & 32 Vict. c. 125, s. 15; 32 & 33 Vict. c. 21, ss. 3—6; 34 & 35 Vict. c. 61, ss. 3, 4).

Sub-section 2. Under the order of an Election Court.—See ss. 43 (8), and 44 (1), (b), and (2).

Or otherwise.—See ss. 10, 12 of Corrupt Practices Act, 1854, applied by s. 53, above.

Note to Section 59.

This section substantially re-enacts s. 7 of the Corrupt Practices Act, 1863, with the addition of the words “or on the ground of privilege” and “truly” in sub-s. (1), and of sub-ss. (3) and (5). Hitherto certificates of indemnity have protected the persons obtaining them from incapacities as well as punishment. See notes to s. 38.

Sub-section (1). On the ground of privilege.—This as modified by sub-s. (5), will enable an election judge to examine any solicitor, and election commissioners to examine any solicitor who has taken any part in an election contest, respecting matters which have come to his knowledge, not as an election agent, but as solicitor to a petitioner or respondent.

S 59.

to answer shall be entitled to receive a certificate of indemnity under the hand of a member of the court stating that such witness has so answered : and

(b.) an answer by a person to a question put by or before any Election Court shall not, except in the case of any criminal proceeding for perjury in respect of such evidence, be in any proceeding, civil or criminal, admissible in evidence against him :

(2.) Where a person has received such a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any offence under the Corrupt Practices Prevention Acts or this Act committed by him previously to the date of the certificate at or in relation to the said election, the court having cognisance of the case shall on proof of the certificate stay the proceeding, and may in their discretion award to the said person such costs as he may have been put to in the proceeding.

(3.) Nothing in this section shall be taken to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceeding to enforce such incapacity (other than a criminal prosecution).

(4.) This section shall apply in the case of a witness before any election commissioners, in like manner as if the expression " Election Court " in this section included election commissioners.

(5.) Where a solicitor or person lawfully acting as agent for any party to an election petition respecting any election for a county or borough has not taken any

Answers truly.—*I.e.*, in the judgment of the Court or of the election commissioners, whose decision to refuse a certificate cannot be reviewed on mandamus (*R. v. Holl*, 7 Q. B. D. 575). “Truly” is new, but is merely declaratory of the former law, if (as seems right) it means “honestly, to the best of his knowledge and belief” (see *R. v. Holl*, pp. 580, 589). A witness has hitherto only been entitled to a certificate when he has been required to answer questions the answers to which criminate or tend to criminate him (Corrupt Practices Act, 1863, s. 7).

Any criminal proceeding for perjury, includes both indictments and informations.

Sub-section (3).—The effect of this sub-section is, that any person reported guilty of a corrupt or illegal practice, is not saved by a certificate of indemnity from any incapacities he is otherwise liable to (s. 38 (5)), and is to be entered in the list of disenfranchised voters (s. 39). He will be liable to a penalty if he votes (s. 9), and may be removed from any public or judicial office (s. 64) which he holds, or to which he is subsequently elected.

Sub-section (5). Person lawfully acting as agent.—See s. 57 of the Parliamentary Elections Act, 1863.

§ 59.

part or been concerned in such election, the election commissioners inquiring into such election shall not be entitled to examine such solicitor or agent respecting matters which came to his knowledge by reason only of his being concerned as solicitor or agent for a party to such petition.

§ 60.

Submission
of report of
Election
Court or
commis-
sioners to
Attorney
General.

60. An Election Court or election commissioners, when reporting that certain persons have been guilty of any corrupt or illegal practice, shall report whether those persons have or not been furnished with certificates of indemnity ; and such report shall be laid before the Attorney-General (accompanied in the case of the commissioners with the evidence on which such report was based) with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in his opinion, be sufficient to support a prosecution.

§ 61.

Breach of
duty by
officer.
35 & 36 Vict.
c. 33.

61. (1.) Section eleven of the Ballot Act, 1872, shall apply to a returning officer or presiding officer or clerk who is guilty of any wilful misfeasance or wilful act or omission in contravention of this Act in like manner as if the same were in contravention of the Ballot Act, 1872.

6 Vict. c. 18.

(2.) Section ninety-seven of the Parliamentary Registration Act, 1843, shall apply to every registration officer who is guilty of any wilful misfeasance or wilful act of commission or omission contrary to this Act in like manner as if the same were contrary to the Parliamentary Registration Act, 1843.

Note to Section 60.

This section substantially re-enacts s. 9 of the Corrupt Practices Act, 1863, which was, however, confined to the offences of bribery and treating.

Note to Section 61.

Sub-section (1).—For duties of returning officer, see ss. 24—26, 31 (2), 34.

S. 11 of the Ballot Act provides that “every returning officer, presiding officer, or clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission, a penal sum not exceeding one hundred pounds.

Sub-section (2).—For duties of registration officer, see s. 39. For definition, see s. 64.

S. 97 of the Parliamentary Registration Act, 1843 (6 Vict. c. 18), provides that certain officers therein mentioned “shall for every wilful misfeasance or wilful act of commission or omission,” contrary to that Act, forfeit “to any party aggrieved” a penalty

§ 62. **62.** (1.) Any public notice required to be given by the returning officer under this Act shall be given in the manner in which he is directed by the Ballot Act, 1872, to give a public notice.

Publication
and service
of notices.
35 & 36 Vict.
c. 93.

(2.) Where any summons, notice, or document is required to be served on any person with reference to any proceeding respecting an election for a county or borough, whether for the purpose of causing him to appear before the High Court or any Election Court, or election commissioners, or otherwise, or for the purpose of giving him an opportunity of making a statement, or showing cause, or being heard by himself, before any court or commissioners, for any purpose of this Act, such summons, notice or document may be served either by delivering the same to such person, or by leaving the same at, or sending the same by post by a registered letter to, his last known place of abode in the said county or borough, or if the proceeding is before any court or commissioners, in such other manner as the court or commissioners may direct, and in proving such service by post it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered with the post office.

35 & 36 Vict. (3.) In the form of notice of a parliamentary election set forth in the Second Schedule to the Ballot Act, 1872, the words "or any illegal practice" shall be inserted after the words "or other corrupt practices," and the words "the Corrupt and Illegal Practices Pre-

c. 93.

not exceeding one hundred pounds, to be recovered by action in a superior court. For substituted enactments in Scotland and Ireland, see ss. 68 (16), 69 (3).

Note to Section 62.

Sub-section (1).—For public notice by returning officer, see ss. 24—26.

The Ballot Act, Sch. I., rule 46, provides that “where the returning officer is required or authorised by this Act to give any public notice, he shall carry such requirement into effect by advertisements, placards, handbills, or such other means as he thinks best calculated to afford information to the electors.”

Sub-section (2).—For cases to which this section applies, see ss. 34 (2), 38 (1), 39 (6), 43 (2), 44. For cases in which such notice is to be given “as to the Court seems fit,” see ss. 23 (c), 34 (1).

Sub-section (3).—This notice will now run, “Take notice that all persons who are guilty of bribery, treating, undue influence, per-sonation, or other corrupt practices, or any illegal practice at the said election will, on conviction of such offence, be liable to the penalties mentioned in that behalf in the Corrupt Practices Pre-vention Act, 1854, the *Corrupt and Illegal Practices Prevention Act*, 1883, and the Ballot Act, 1872, and the Acts amending the said Acts.”

§ 62.

vention Act, 1883," shall be inserted after the words "Corrupt Practices Prevention Act, 1854."

Definition
of candi-
date, and
saving for
persons
nominated
without
consent.

§ 63.

63. (1.) In the Corrupt Practices Prevention Acts, as amended by this Act, the expression "candidate at an election" and the expression "candidate" respectively mean, unless the context otherwise requires, any person elected to serve in Parliament at such election, and any person who is nominated as a candidate at such election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for such election, or after the dissolution or vacancy in consequence of which such writ has been issued ;

(2.) Provided that where a person has been nominated as a candidate or declared to be a candidate by others, then—

(a.) If he was so nominated or declared without his consent, nothing in this Act shall be construed to impose any liability on such person, unless he has afterwards given his assent to such nomination or declaration, or has been elected ; and

(b.) If he was so nominated or declared, either without his consent or in his absence and he takes no part in the election, he may, if he thinks fit, make the declaration respecting election expenses contained in the second part of the Second Schedule to this Act, and the election agent shall, so far as circumstances admit, comply with the provisions of this Act with respect to expenses incurred

Note to Section 63.

Sub-section (1).—This re-enacts the former definition of “candidate” (21 & 22 Vict. c. 87, s. 3), with the addition of the words “or by others” in the seventh line.

The effect of the former definition of “candidate” was fully discussed by the Irish Court of Common Pleas in the *Youghal Case* (1 O’M. & H. 293). It was there decided that a person who did acts of treating in July, and became a candidate on a dissolution taking place in August, was rightly found guilty of treating *as a candidate*. Acts, therefore, done before a vacancy by persons who become candidates after such vacancy (or by their agents) enure to their disadvantage as candidates.

Thus, the effect of this definition will not be to limit the period of “a candidate’s” liability either for corrupt acts or for expenditure to be brought within the maximum (s. 8), but only to save any person who does not, by being nominated, &c., come within the terms of the definition from the special obligations of a candidate, e.g., from appointing an election agent (s. 24), and making a return of expenses (s. 33).

Sub-section (2) (a) is new and consequential on the addition of the words “or by others” in sub-s. (1). It protects persons “declared by others to be candidates” from all liability, unless they assent at the time of such declaration or afterwards, or are actually elected. Such assent may of course be implied from their acts, and need not be actually expressed in writing or otherwise.

If a candidate is nominated without his consent, the persons by whom his nomination is subscribed are to be jointly and severally liable for his share of the returning officer’s charges (38 & 39 Vict. c. 84, s. 2).

Sub-section (2) (b) is new, and is consequential on the provisions as to the return of election expenses. See s. 33.

The declaration, &c.—See p. 178.

The election agent shall, &c.—*i.e.*, the agent is to pay all claims, and make his return and declarations as directed by ss. 29, 33.

It is clear from this section that there will have to be an election agent appointed by or on behalf of every person coming within the above definition of candidate, whether he is present or absent, and whether he does or does not go to the poll. See s. 24.

§ 63.

on account of or in respect of the conduct or management of the election in like manner as if the candidate had been nominated or declared with his consent.

§ 64.

64. In this Act, unless the context otherwise requires—

General interpretation of terms.

31 & 32 Vict.
c. 126.

The expression “election” means the election of a member or members to serve in Parliament :

The expression “election petition” means a petition presented in pursuance of the Parliamentary Elections Act, 1868, as amended by this Act :

The expression “Election Court” means the judges presiding at the trial of an election petition, or, if the matter comes before the High Court, that court :

The expression “Election Commissioners” means commissioners appointed in pursuance of the Election Commissioners’ Act, 1852, and the enactments amending the same :

The expression “High Court” means Her Majesty’s High Court of Justice in England :

The expressions “court of summary jurisdiction,” “petty sessional court,” and “Summary Jurisdiction Acts,” have the same meaning as in the Summary Jurisdiction Act, 1879 :

The expression the “Attorney General” includes the Solicitor General in cases where the office of the Attorney General is vacant, or the Attorney General is interested or otherwise unable to act :

The expression “registration officer” means the

15 & 16 Vict.
c. 57.

42 & 43 Vict.
c. 43.

In respect of the conduct or management of the election.—See note to s. 8.

Note to Section 64.

"Election Court."—See 42 & 43 Vict. c. 75 (Appendix, p. 214).

The Attorney-General is interested,—e.g., in the case of his own election.

"Registration Officer."—The Parliamentary Registration Act, 1843 (6 Vict. c. 18), s. 101, enacts that "throughout this Act . . . the words 'clerk of the peace' shall comprehend and apply to any deputy or other persons executing the duties of such clerk of the peace; and the words 'town clerk' shall, except in regard to the cities of London and Westminster and the borough of Southwark, extend to and mean any person executing the duties of town clerk, or if in any city or borough there shall be no such officer as town clerk, then to any officer executing the same or like duties as usually devolve upon the town clerk, or if in any city or borough there be no such person, then to the returning officer of such city or borough, or to such person as the returning officer may appoint for that purpose, which he is hereby authorised to do." Section 56 of the same Act provides that "the words 'town clerk' shall not be understood to mean or apply to the town clerks of the cities of London or Westminster, or to the town clerk of the borough of Southwark, but throughout this Act by the words 'town clerk' shall be understood in regard to the city of London the secondaries of the said city, and in regard to the city of Westminster the high bailiff of the said city, and in regard to the borough of Southwark the high bailiff of the said borough." There are similar definitions in the Irish Act (13 & 14 Vict. c. 69). In Scotland the "assessor" performs the duties both of registration officer and overseers in England (19 & 20 Vict. c. 58, and 24 & 25 Vict. c. 83).

§ 64.

clerk of the peace in a county, and the town clerk in a borough, as respectively defined by the enactments relating to the registration of parliamentary electors :

The expression "elector" means any person whose name is for the time being on the register roll or book containing the names of the persons entitled to vote at the election with reference to which the expression is used :

The expression "register of electors" means the said register roll or book :

The expression "polling agent" means an agent of the candidate appointed to attend at a polling station in pursuance of the Ballot Act, 1872, or of the Acts therein referred to or amending the same :

The expression "person" includes an association or body of persons, corporate or unincorporate, and where any act is done by any such association or body, the members of such association or body who have taken part in the commission of such act shall be liable to any fine or punishment imposed for the same by this Act :

The expression "committee room" shall not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting business with his agents in relation to such election ; nor shall any room or building be deemed to be a committee room for the purposes of this Act by reason only of the candidate or any agent of the candidate

"Polling Agent."—The Ballot Act, Schedule I., r. 57, defines the expression, "agents of the candidates," used in relation to a polling station, to mean the agents appointed in pursuance of s. 85 of 6 Vict. c. 18. That section provides "that it shall be lawful for any candidate at any election of a member or members to serve in Parliament for any county, city, or borough, previous to the time fixed for taking the poll at such election, to nominate and appoint an agent or agents on his behalf to attend at each or any of the booths appointed for taking the poll at such election, for the purpose of detecting personation; and such candidate shall give notice in writing to the returning officer, or his respective deputy, of the name and address of the person or persons so appointed by him to act as agents for such purpose; and thereupon it shall be lawful for every such agent to attend during the time of polling at the booth or booths for which he shall have been so appointed." In Scotland no polling agents were provided for until the Ballot Act (Schedule I., r. 59). In Ireland there are provisions similar to those in the English Act (13 & 14 Vict. c. 69, s. 92).

Person.—This definition, which effects a most important extension in certain sections of this Act (e.g., ss. 1, 2, 28) was inserted in the House of Commons to stop improper interference with an election by clubs and associations having no direct connection with the candidate or constituency.

Liable.—*I.e.*, personally liable to all punishments and incapacities to which the association if an individual would have been subject. This is probably only declaratory of the common law.

Committee room.—This definition was inserted in the House of Commons to limit the operation of s. 20. It is only negative, it being impossible to frame a satisfactory affirmative definition of a committee room. The second clause makes it clear that candidates may hold meetings in schools, clubs, and public-houses, within s. 20, but care must be taken at election times that no other election business is transacted there.

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addressing therein electors, committeemen, or others :

The expression "public office" means any office under the Crown or under the charter of a city or municipal borough or under the Acts relating to Municipal Corporations or to the Poor Law, or under the Elementary Education Act, 1870, or under the Public Health Act, 1875, or under any Acts amending the above mentioned Acts, or under any other Acts for the time being in force (whether passed before or after the commencement of this Act) relating to local government, whether the office is that of mayor, chairman, alderman, councillor, guardian, member of a board, commission, or other local authority in any county, city, borough, union, sanitary district, or other area, or is the office of clerk of the peace, town clerk, clerk or other officer under a council, board, commission, or other authority, or is any other office, to which a person is elected or appointed under any such charter or Act as above-mentioned, and includes any other municipal or parochial office ; and the expressions "election," "election petition," "Election Court," and "register of electors," shall, where expressed to refer to an election for any such public office, be construed accordingly :

The expression "judicial office" includes the office of justice of the peace and revising barrister :

The expression "personal expenses" as used with respect to the expenditure of any candidate in relation to any election includes the reasonable

33 & 34 Vict.
c. 75.
38 & 39 Vict.
c. 55.

Public office.—This will include (though it is not expressly stated) the offices of vestryman, vestry clerk, &c., in the metropolis (the Metropolis Management Acts being “Acts relating to local government⁶”). It also includes such offices as sanitary inspector and surveyor of highways, schoolboard manager, &c.

§ 64.

travelling expenses of such candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to such election :

The expression "indictment" includes information :
The expression "costs" includes costs, charges, and expenses :

The expression "payment" includes any pecuniary or other reward ; and the expressions "pecuniary reward" and "money" shall be deemed to include any office, place, or employment, and any valuable security or other equivalent for money, and any valuable consideration, and expressions referring to money shall be construed accordingly :

The expression "Licensing Acts" means the Licensing Acts, 1872 to 1874 :

Other expressions have the same meaning as in the Corrupt Practices Prevention Acts.

§ 65.

Short title.

(1.) The enactments described in the Third Schedule to this Act are in this Act referred to as the Corrupt Practices Prevention Acts.

(2.) The Acts mentioned in the Fourth Schedule to this Act are in this Act referred to and may be cited respectively by the short titles in that behalf in that schedule mentioned.

(3.) This Act may be cited as the Corrupt and Illegal Practices Prevention Act, 1883.

(4.) This Act and the Corrupt Practices Prevention Acts may be cited together as the Corrupt Practices Prevention Acts, 1854 to 1883.

"Personal expenses."—This re-enacts for the purposes of this Act part of s. 38 of the Corrupt Practices Act, 1854. For the other definitions in that section and ss. 3, 4, 58 of the Parliamentary Elections Act, 1868, applied by the last words of this section, but not set out here, see Appendix, pp. 198—201.

The most important one is that of "*borough*," which includes any "university, city, place, or combination of places returning a member to serve in Parliament" (Parliamentary Elections Act, s. 3). All the provisions of this Act applying to boroughs will accordingly (as far as possible) apply to universities.

§ 66.Repeal of
Acts.

66. The Acts set forth in the Fifth Schedule to this Act are hereby repealed as from the commencement of this Act to the extent in the third column of that schedule mentioned, provided that this repeal or the expiration of any enactment not continued by this Act shall not revive any enactment which at the commencement of this Act is repealed or not continued, and shall not affect anything duly done or suffered before the commencement of this Act, or any right acquired or accrued or any incapacity incurred before the commencement of this Act, and any person subject to any incapacity under any enactment hereby repealed shall continue subject thereto, and this Act shall apply to him as if he had become so subject in pursuance of the provisions of this Act.

§ 67.
Commencement of Act.

67. This Act shall come into operation on the fifteenth day of October one thousand eight hundred and eighty-three, which day is in this Act referred to as the commencement of this Act.

*Application of Act to Scotland.***§ 68.**
Application of Act to
Scotland.

68. This Act shall apply to Scotland, with the following modifications :

(1.) The following expressions shall mean as follows :

The expression "misdemeanour" shall mean crime and offence :

The expression "indictment" shall include criminal letters :

The expression "solicitor" shall mean enrolled law agent :

Note to Section 66.

Any enactment not continued by this Act.—See s. 70.

This Act shall apply to him as if &c.—The effect of this is that any person already incapacitated from voting by ss. 43, 45 of the Parliamentary Elections Act (see notes to ss. 4, 6, above), not only remains subject to that incapacity, but becomes liable to the prohibition on voting and penalty imposed by ss. 9, 37 of this Act.

Note to Section 67.

This Act will apply to all Parliamentary Elections taking place on and after October 15, 1883, and will affect the municipal elections taking place in November, 1883. See p. 193.

§ 68.

The expression "revising barrister" shall mean sheriff :

The expression "barrister" shall mean advocate :

The expression "petty sessional court" shall mean Sheriff Court :

The expression "Quarter Sessions" shall mean the Court of Justiciary :

The expression "registration officer" shall mean an assessor under the enactments relating to the registration of parliamentary voters :

The expression "municipal borough" shall include royal burgh and burgh of regality and burgh of barony :

The expression "Acts relating to municipal corporations" shall include the General Police and Improvement (Scotland) Act, 1862, and any other Act relating to the constitution and government of burghs in Scotland :

The expression "mayor" shall mean provost or chief magistrate :

The expression "alderman" shall mean bailie :

The expression "Summary Jurisdiction Acts" shall mean the Summary Jurisdiction (Scotland) Acts, 1864 and 1881, and any Acts amending the same.

(2.) The provisions of this Act with respect to polling districts and the expenses of dividing a county or borough into polling districts shall not apply to Scotland.

(3.) The provisions respecting the attendance at the trial of an election petition of a representative of the Director of Public Prosecutions shall not apply to Scot-

Note to Section 68.

Sub-section (2).—See s. 47, and *cf.* Ballot Act, s. 16 (4). In Scotland the division of counties into polling districts, and the appointment of polling places in burghs is left to the sheriff and town clerk respectively (2 & 3 Will. IV. c. 65, s. 27).

Sub-section (3).—See s. 43.

§ 68.

land, and in place thereof the following provisions shall have effect :

- (a.) At the trial of every election petition in Scotland Her Majesty's advocate shall be represented by one of his deputies or by the procurator-fiscal of the sheriff court of the district, who shall attend such trial as part of his official duty, and shall give all necessary assistance to the judge with respect to the citation of witnesses and recovery of documents :
- (b.) If the Judge shall grant a warrant for the apprehension, commitment, or citation of any person suspected of being guilty of a corrupt or illegal practice, the case shall be reported to Her Majesty's advocate in order that such person may be brought to trial before the High Court of Justiciary or the sheriff, according to the nature of the case :
- (c.) It shall be the duty of the advocate depute or, in his absence, the procurator-fiscal, if it appears to him that a corrupt or illegal practice within the meaning of this Act has been committed by any person who has not received a certificate of indemnity, to report the case to Her Majesty's advocate in order to such person being brought to trial before the proper court, although no warrant may have been issued by the judge.
- (4.) The jurisdiction of the High Court of Justice under this Act shall, in Scotland, be exercised by one of the Divisions of the Court of Session, or by a Judge

§ 68.

of the said Court to whom the same may be remitted by such division, and subject to an appeal thereto, and the Court of Session shall have power to make Acts of sedentary runt for the purposes of this Act.

(5.) Court of Oyer and Terminer shall mean a circuit Court of Justiciary, and the High Court of Justiciary shall have powers to make Acts of adjournal regulating the procedure in appeals to the circuit court under this Act.

(6.) All offences under this Act punishable on summary conviction may be prosecuted in the Sheriff Court in manner provided by the Summary Jurisdiction Acts, and all necessary jurisdictions are hereby conferred on sheriffs.

(7.) The authority given by this Act to the Director of Public Prosecutions in England shall in Scotland be exercised by Her Majesty's advocate, and the reference to the Prosecution of Offences Act, 1879, shall not apply.

(8.) The expression "Licensing Acts" shall mean "The Public Houses Acts Amendment (Scotland) Act, 1862," and "The Publicans' Certificates (Scotland) Act, 1876," and the Acts thereby amended and therein recited.

(9.) The expression "register of licences" shall mean the register kept in pursuance of section twelve of the Act of the ninth year of the reign of King George the Fourth, chapter fifty-eight.

(10.) The references to the Public Health Act, 1875, and to the Elementary Education Act, 1870,¹ shall be construed to refer to the Public Health (Scotland) Act, 1867, and to the Elementary Education (Scotland) Act, 1872.

Sub-section (5).—See s. 38 (2).

§ 68.

(11.) Any reference to the Parliamentary Elections Returning Officers Act, 1875, shall not apply.

(12.) The provisions with respect to the registration officer sending the corrupt and illegal practices list to overseers and the dealing with such list by overseers shall not apply, and in lieu thereof it is hereby enacted that the assessor shall in counties include the names of such persons in the list of persons who have become disqualified, and in boroughs shall omit the names of such persons from the list of persons entitled to vote.

(13.) The power given by this Act to the Lord Chancellor in England shall in Scotland except so far as relates to the justices of the peace be exercised by the Lord Justice General.

(14.) Any reference to the Attorney-General shall refer to the Lord Advocate.

(15.) The provisions with respect to the removal of cases to the Central Criminal Court or to the trial of cases at the Royal Courts of Justice shall not apply.

^{24 & 25 Vict.}
_{c 83.} (16.) Section thirty-eight of the County Voters Registration (Scotland) Act, 1861, shall be substituted for section ninety-seven of the Parliamentary Registration Act, 1843, where reference is made to that section in this Act.

(17.) The provision of this Act with regard to costs shall not apply to Scotland, and instead thereof the following provision shall have effect :

The costs of petitions and other proceedings under the Parliamentary Elections Act, 1868, and under this Act, shall, subject to any regulations which the Court of Session may make by Act of

Sub-section (11).—As to the expenses of Returning Officer in Scotland, see App. p. 221.

Sub-section (12).—See s. 39 (3). Under the Scotch Registration Acts (19 & 20 Vict. c. 58, 24 & 25 Vict. c. 83, 31 & 32 Vict. c. 48, ss. 19—23), the assessor performs the duties both of the registration officers and the overseers in England.

Sub-section (13).—See s. 38 (3) (6).

Sub-section (15).—See s. 50.

Sub-section (17).—See s. 43 (3). This replaces s. 58 (16) of the Parliamentary Elections Act, 1868, now repealed.

§ 68.

sederunt, be taxed as nearly as possible according to the same principles as costs between agent and client are taxed in a cause in that court, and the auditor shall not allow any costs, charges, or expenses on a higher scale.

*Application of Act to Ireland.***§ 69.** This Act shall apply to Ireland, with the following modifications :

Application
of Act to
Ireland.

45 & 46 Vict.
c. 25.

14 & 15 Vict.
c. 93.

- (1.) No person shall be tried for any offence against this Act under any of the provisions of the Prevention of Crime (Ireland) Act, 1882.
- (2.) The expression "Summary Jurisdiction Acts" means, with reference to the Dublin Metropolitan Police District, the Acts regulating the powers and duties of justices of the peace and of the police in such district ; and with reference to other parts of Ireland means the Petty Sessions (Ireland) Act, 1851, and any Acts amending the said Act.
- (3.) Section one hundred and three of the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-nine, shall be substituted for section ninety-seven of the Parliamentary Registration Act, 1843, where reference is made to that section in this Act.
- (4.) The provision with respect to the registration officer sending the corrupt and illegal practices list to overseers and the dealing with such list by overseers shall not apply, and in lieu thereof it is hereby enacted that the re-

Note to Section 69.

Sub-section (1).—This was inserted in Committee of the House of Commons to prevent offences under this Act being tried by resident magistrates, and to exclude on such trials the right of the Attorney General to require special juries and a change of venue (see 45 & 46 Vict. c. 25, ss. 4, 6, 22). It was also suggested that the definition of “intimidation” in the Irish Act (s. 7) might operate to extend the definition of undue influence in s. 2 of this Act. This, of course, is not so, even if “intimidation” had not been omitted from that definition (see note to s. 2), since that expression is only defined in the Irish Act for the purposes of that Act. There may be many acts which are “intimidation” as so defined without amounting to “undue influence.”

Sub-section (3).—See s. 61 (2).

Sub-section (4).—See s. 39 (3).

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gistration officer shall, after making out such list, himself publish the same in the manner in which he publishes the lists referred to in the twenty-first and the thirty-third sections of the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-nine ; and shall also in the case of every person in the corrupt and illegal practices list enter "objected to" against his name in the register and lists made out by such registration officer in like manner as he is by law required to do in other cases of disqualification.

- (5.) The Supreme Court of Judicature in Ireland shall be substituted for the Supreme Court of Judicature.
- (6.) The High Court of Justice in Ireland shall be substituted for the High Court of Justice in England.
- (7.) The Lord High Chancellor of Ireland shall be substituted for the Lord High Chancellor of Great Britain.
- (8.) The Attorney-General for Ireland shall be substituted for the Director of Public Prosecutions, and the reference to the Prosecution of Offences Act, 1879, shall not apply.
- (9.) The provisions of this Act relative to polling districts shall not apply to Ireland, but in the county of the town of Galway there shall be a polling station at Barna, and at such other places within the Parliamentary borough of

Sub-section (9).—See s. 47. Special provision is made for the increase of polling places in Galway, as since 1872 it has been the only Irish borough in which payments for the conveyance of voters have been legal (see 31 & 32 Vict. c. 49, s. 12, and Ballot Act, s. 32, Schedule VI.). Moreover, not being a municipal borough divided into wards, it has not (like the other large boroughs in Ireland) been divided into polling districts by the operation of 13 & 14 Vict. c. 68, s. 5, and the Ballot Act, s. 19. Apart from the present enactment, the local authorities of Irish boroughs have no powers in respect of polling districts.

§ 69.

Galway as the town commissioners may appoint.

- 35 & 36 Vict.
c. 60.*
- (10.) Any reference to Part IV. of the Municipal Corporations Act, 1882, shall be construed to refer to the Corrupt Practices (Municipal Elections) Act, 1872.
 - (11.) Any reference to the Licensing Acts shall be construed to refer to the Licensing Acts (Ireland), 1872—1874.
 - 41 & 42 Vict.
c. 52.*
 - (12.) The Public Health (Ireland) Act, 1878, shall be substituted for the Public Health Act, 1875.
 - (13.) The provisions with respect to the removal of cases to the Central Criminal Court, or to the trial of cases at the Royal Courts of Justice, shall not apply to Ireland.

*Continuance.***§ 70.**

*Continu-
ance.*

70. This Act shall continue in force until the thirty-first day of December one thousand eight hundred and eighty-four, and no longer, unless continued by Parliament; and such of the Corrupt Practices Prevention Acts as are referred to in Part One of the Third Schedule to this Act shall continue in force until the same day and no longer, unless continued by Parliament.

Sub-section (10).—See ss. 37, 38, 39.

Sub-section (11).—See s. 38 (8).

Sub-section (13).—See s. 50.

Note to Section 70.

This Act, like most of the other Acts relating to Parliamentary Elections, is a temporary Act, requiring renewal from time to time, It is on recognised constitutional principles that the House of Commons declines to give up permanently its control over the elections of its members.

The Parliamentary Elections Act, 1868, was passed in the first instance for three years, and has since been renewed annually by the Expiring Laws Continuance Act.

SCHEDULES.

Sched. I.

FIRST SCHEDULE.

PART I.

PERSONS LEGALLY EMPLOYED FOR PAYMENT.

- (1.) One election agent and no more.
- (2.) In counties one deputy election agent (in this Act referred to as a sub-agent) to act within each polling district and no more.
- (3.) One polling agent in each polling station and no more.
- (4.) In a borough one clerk and one messenger, or if the number of electors in the borough exceeds five hundred, a number of clerks and messengers not exceeding in number one clerk and one messenger for every complete five hundred electors in the borough, and if there is a number of electors over and above any complete five hundred or complete five hundreds of electors, then one clerk and one messenger may be employed for such number, although not amounting to a complete five hundred.
- (5.) In a county, for the central committee room one clerk and one messenger, or if the number of electors in the county exceeds five thousand then a number of clerks and messengers not exceeding in number one clerk and one messenger for every complete five thousand electors in the county ; and if there is a number of electors over and above any complete five thousand or complete five thousands of electors, then one clerk and one messenger

NOTES TO FIRST SCHEDULE.

PART I.—This part enumerates all the “capacities” in which any persons may be legally “engaged or employed for payment or promise of payment” (s. 17) by the candidate, his agents, or any other person whatever “for the purpose of promoting or procuring the election of any candidate.” It does not exclude any volunteer unpaid assistance, nor the employment of persons indirectly for any purposes authorised by Part II. (See below.) Nor does it prevent the paid employment of persons not specially engaged or paid for the promotion of a particular election, *e.g.*, a salaried registration agent or the *regular* staff of clerks of a solicitor who is engaged as election agent.

(1.) *One election agent.*—See s. 24. He must make all contracts and payments, and engage all persons legally employed (ss. 24—27).

(2.) *Deputy election agent.*—See s. 25.

(3.) *Polling agent.*—As to appointment of polling agents, clerks, and messengers, see s. 27. For def. of polling agent, see s. 64.

(4.)—(6.) The maximum number of clerks and messengers allowed is as follows. In boroughs one (of each) for every complete 500 electors, and another for any fraction of that number. Those boroughs with 500 electors or less will be entitled to one; boroughs with 501 to 1000 electors (inclusive) to two, and so on.

In counties (i.) to be employed at the central committee-room, one for every complete 5000 electors, and another for any fraction of that number. (ii.) To be employed in any polling district, one for each district, and another for every complete 500 electors over the first 500 in a district, and another for any fraction of 500 over any multiple of 500 electors in the district. Thus in a county with three districts containing respectively 490, 1820, and 3430 electors, there would be allowed two clerks for the central committee-room, one for district No. 1, four for No. 2, and seven for No. 3.

Sched. I. may be employed for such number, although not amounting to a complete five thousand.

(6.) In a county a number of clerks and messengers not exceeding in number one clerk and one messenger for each polling district in the county, or where the number of electors in a polling district exceeds five hundred one clerk and one messenger for every complete five hundred electors in the polling district, and if there is a number of electors over and above any complete five hundred or complete five hundreds of electors, then one clerk and one messenger may be employed for such number, although not amounting to a complete five hundred : Provided always, that the number of clerks and messengers so allowed in any county may be employed in any polling district where their services may be required.

(7.) Any such paid election agent, sub-agent, polling agent, clerk, and messenger may or may not be an elector but may not vote.

(8.) In the case of the boroughs of East Retford Shoreham, Cricklade, Much Wenlock, and Aylesbury, the provisions of this part of this schedule shall apply as if such borough were a county.

PART II.

LEGAL EXPENSES IN ADDITION TO EXPENSES UNDER PART I.

(1.) Sums paid to the returning officer for his charges not exceeding the amount authorised by the Act 38 & 39 Vict. c. 84.

(2.) The personal expenses of the candidate.

(3.) The expenses of printing, the expenses of adver-

(7.) *May not vote.*—This follows s. 11 of the Representation of the People Act, under which any paid employee voting will be guilty of a misdemeanor, and punishable with fine and imprisonment. Cp. s. 9 of this Act.

(8.) As to these agricultural boroughs, see note to s. 47 (3).

Part II.—This part enumerates the objects on which money may legally be spent for the purpose of promoting a candidate's election. It also impliedly authorises the employment of persons indirectly and by contract for certain "purposes" (see s. 17), e.g., the employees of printers and advertisers, *casual* messengers and telegraph boys, and (probably) shorthand writers at public meetings.

(1.) The Parliamentary Elections (Returning Officers) Act, 1875 (38 & 39 Vict. c. 84), s. 2, provided that the returning officer should only be entitled to his reasonable charges, not exceeding the sums mentioned in the First Schedule to that Act. The Act did not, however, impose any penalty on returning officers making charges in excess of these sums. (See App. p. 218.)

Sched. I.

tising, and the expenses of publishing, issuing, and distributing addresses and notices.

(4.) The expenses of stationery, messages, postage, and telegrams.

(5.) The expenses of holding public meetings.

(6.) In a borough the expenses of one committee room, and if the number of electors in the borough exceeds five hundred then of a number of committee rooms not exceeding the number of one committee room for every complete five hundred electors in the borough, and if there is a number of electors over and above any complete five hundred or complete five hundreds of electors, then of one committee room for such number, although not amounting to a complete five hundred.

(7.) In a county the expenses of a central committee room, and in addition of a number of committee rooms not exceeding in number one committee room for each polling district in the county, and where the number of electors in a polling district exceeds five hundred, one additional committee room may be hired for every complete five hundred electors in such polling district over and above the first five hundred.

PART III.*Maximum for Miscellaneous Matters.*

Expenses in respect of miscellaneous matters other than those mentioned in Part I. and Part II. of this schedule not exceeding in the whole the maximum amount of two hundred pounds, so nevertheless that such expenses are not incurred in respect of any matter or in any manner constituting an offence under this or

(2.) The personal expenses of the candidate may be unlimited in amount (see Part IV.), but so far as they exceed £100 must be paid through the election agent (s. 31). See def. of personal expenses, s. 64.

(4.) These expenses may be paid by any person authorised by the election agent (s. 31 (2)).

(6.) and (7.) As to committee rooms, see ss. 7, 20, 27. In boroughs one is allowed for every complete 500 electors, and another for any fraction of that number. In counties, besides a central committee room, one is allowed for every polling district, and another for every complete 500 electors (but not for any fraction) over and above the first 500 in a polling district. In counties only, an extra (central) committee room is allowed. It would seem that a committee room need not necessarily be situated in the district for which it is allowed.

PART III.—Miscellaneous matters.—These will include the necessary travelling expenses and refreshments of those conducting the election, reporters at public meetings (if not within Part II.), and other small matters not enumerated in Part II. For small sums which may be legally paid by other persons than an election agent, see s. 31.

The amount allowed under this Part (200/- in every constituency) will have to be included within the maximum allowed by Part IV., and all items will have to be specified in the return (see Form of return, Schedule II., p. 177). As to the reduction of the maximum under this Part in the case of joint candidates, see Sched. I. Part V. (3).

Sched. I. any other Act, or in respect of any matter or thing, payment for which is expressly prohibited by this or any other Act.

PART IV.

Maximum Scale.

(1.) In a borough the expenses mentioned above in Parts I., II., and III. of this schedule, other than personal expenses and sums paid to the returning officer for his charges, shall not exceed in the whole the maximum amount in the scale following :

If the number of electors on the register—	The maximum amount shall be—
Does not exceed 2,000	350 <i>l.</i>
Exceeds 2,000 . .	380 <i>l.</i> , and an additional 30 <i>l.</i> for every com- plete 1,000 electors above 2,000.

Provided that in Ireland,
If the number of electors
on the register—

The maximum amount shall be—
200 <i>l.</i>
250 <i>l.</i>
275 <i>l.</i>

(2.) In a county the expenses mentioned above in Parts I., II., and III. of this schedule, other than personal expenses and sums paid to the returning officer for his charges, shall not exceed in the whole the maximum amount in the scale following :

PART IV.—The maximum here given is that allowed for a single candidate. As to joint candidates, see Part V. The only items excluded from the maximum scale are (i.) the candidate's personal expenses, (ii.) the returning officers' charges. As to these, see notes to Part II. above. As to what election expenses must be brought within the maximum, see note to s. 8.

For Tables of Expenditure, see pp. 190, 191.

A distinct (and lower) scale is prescribed (i.) for Irish boroughs with an electorate below 2,000, (ii.) for all Irish counties.

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If the number of electors on the register—	The maximum amount shall be—
Does not exceed 2,000	650 <i>l.</i> in England and Scotland, and 500 <i>l.</i> in Ireland.
Exceeds 2,000 . . .	710 <i>l.</i> in England and Scotland, and 540 <i>l.</i> in Ireland ; and an additional 60 <i>l.</i> in England and Scot- land, and 40 <i>l.</i> in Ire- land for every com- plete 1,000 electors above 2,000.

PART V.

General.

(1.) In the case of the boroughs of East Retford, Shoreham, Cricklade, Much Wenlock, and Aylesbury, the provisions of Parts II., III., and IV. of this schedule shall apply as if such borough were a county.

(2.) For the purposes of this schedule the number of electors shall be taken according to the enumeration of the electors in the register of electors.

(3.) Where there are two or more joint candidates at an election the maximum amount of expenses mentioned in Parts III. and IV. of this schedule shall, for each of such joint candidates, be reduced by one-fourth, or if there are more than two joint candidates by one-third.

(4.) Where the same election agent is appointed by or on behalf of two or more candidates at an election, or

PART V.—(1.) See note to s. 47 (3).

(2.) *Register of Electors* is defined, s. 64.

(3), (4). The provisions as to joint candidates were added in the House of Commons, to obviate the injustice which would have been done to a single candidate fighting against two or more joint candidates, by limiting him to an expenditure of only half or one-third of the amount allowed to his opponents. Under the new provisions, two joint candidates will only be allowed to spend $1\frac{1}{2}$ times as much as, three joint candidates twice as much as, a single candidate. See Tables of Expenditure, pp. 190, 191.

Sched. I. where two or more candidates, by themselves or any agent or agents, hire or use the same committee rooms for such election, or employ or use the services of the same sub-agents, clerks, messengers, or polling agents at such election, or publish a joint address or joint circular or notice at such election, those candidates shall be deemed for the purposes of this enactment to be joint candidates at such election.

Provided that—

- (a.) The employment and use of the same committee room, sub-agent, clerk, messenger, or polling agent, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates.
- (b.) Nothing in this enactment shall prevent candidates from ceasing to be joint candidates.
- (c.) Where any excess of expenses above the maximum allowed for one or two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate, and such ceasing or beginning was in good faith, and such excess is not more than under the circumstances is reasonable, and the total expenses of such candidate do not exceed the maximum amount allowed for a separate candidate, such excess shall be deemed to have arisen from a reasonable cause within the meaning of the enactments respecting the allowance by the High Court

Joint candidature is constituted by—

- (i.) Issuing one joint address, circular, or notice;
- (ii.) Appointing the same election agent (s. 24);
- (iii.) Using committee-rooms in common;
- (iv.) Employing sub-agents, clerks, messengers, or polling agents in common;

Of these, (i.) and (ii.) always constitute joint candidates. In the case of (iii.) and (iv.), allowance is made for accidental or trivial use and employment.

Sub-section (4), (c), provides for difficulties arising from a *bond fide* coalition of single, or separation of joint, candidates during a contest. It empowers the Court to exercise its power of equitable relief (on an application being made under s. 23), in favour of any candidate who has not spent more than the maximum allowed for a single candidate.

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or election court of an exception from the provisions of this Act which would otherwise make an act an illegal practice, and the candidate and his election agent may be relieved accordingly from the consequences of having incurred such excess of expense.

Sched.
II.

SECOND SCHEDULE.

PART I. (a)

FORM OF DECLARATIONS AS TO EXPENSES.

Form for Candidate.

I C. D., having been a candidate at the election for the county [or borough] of on the day of , do hereby solemnly and sincerely declare that I have examined the return of election expenses [about to be] transmitted by my election agent [or if the candidate is his own election agent, "by me"] to the returning officer at the said election, a copy of which is now shown to me and marked , and to the best of my knowledge and belief that return is correct ;

And I further solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no person, nor any club, society, or association, has on my behalf, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election ;

And I further solemnly and sincerely declare that I

(a) See ss. 8, 28, 33, and notes.

have paid to my election agent [*if the candidate is also his own election agent, leave out "to my election agent"*] the sum of pounds and no more for the purpose of the said election, and that, except as specified in the said return, no money, security, or equivalent for money has to my knowledge or belief been paid, advanced, given or deposited by anyone to or in the hands of my election agent [*or if the candidate is his own election agent, "myself"*] or any other person for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said election ;

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II.

And I further solemnly and sincerely declare that I will not, except, so far as I may be permitted by law (a), at any future time make or be party to the making or giving of, any payment, reward, office, or employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

Signature of declarant

C.D.

Signed and declared by the above-named declarant on the day of , before me.

(Signed) *E.F.*

Justice of the Peace for

Form for Election Agent.

I, A. B., being election agent to C. D., candidate at the election for the county [*or borough*] of ,

(a) See ss. 26 (9), 33 (9).

Sched.
II.

on the day of , do hereby solemnly and sincerely declare that I have examined the return of election expenses about to be transmitted by me to the returning officer at the said election, and now shown to me and marked , and to the best of my knowledge and belief that return is correct ;

And I hereby further solemnly and sincerely declare that, except as appears from that return, I have not and to the best of my knowledge and belief no other person, nor any club, society, or association has on behalf of the said candidate made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election ;

And I further solemnly and sincerely declare that I have received from the said candidate pounds and no more [or, nothing] for the purpose of the said election, and that, except as specified in the said return sent by me, no money, security, or equivalent for money has been paid, advanced, given, or deposited by any one to me or in my hands, or, to the best of my knowledge and belief, to or in the hands of any other person for the purpose of defraying any expenses incurred on behalf of the said candidate on account of or in respect of the conduct or management of the said election.

Signature of declarant

A.B.

Signed and declared by the above-named declarant on the day of before me.

(Signed)
Justice of the Peace for

E.F.

Sched.
II.

FORM OF RETURN OF ELECTION EXPENSES (a).

I, A.B., being election agent to C.D., candidate at the election for the county [or borough] of on the day of , make the following return respecting election expenses of the said candidate at the said election [or where the candidate has named himself as election agent, "I, C.D., candidate at the election for the county [or borough] of on the day of " , acting as my own election agent, make the following return respecting my election expenses at "the said election"].

Receipts.

Received of [the above named candidate] [or where the candidate is his own election agent, "Paid by me"] £

Received of J.K. £

[Here set out the name and description of every person, club, society, or association, whether the candidate or not, from whom any money, securities, or equivalent of money was received in respect of expenses incurred on account of or in connexion with or incidental to the above election, and the amount received from each person, club, society, or association separately.]

Expenditure.

Paid to E.F., the returning officer for the said county [or borough] for his charges at the said election £

(a) See s. 33, and notes.

Sched.**II.**

Personal expenses of the said C.D., paid by }
 himself [*or if the candidate is his own election agent, "Paid by me as candidate"*] } £

Do. do. paid by }
 me [*or if the candidate is his own election agent, add "acting as election agent"*] } £

Received by me for my services as election agent at the said election [*or if the candidate is his own election agent, leave out this item*] } £

Paid to G.H. as sub-agent of the polling district of } £

[*The name and description of each sub-agent and the sum paid to him must be set out separately.*]

Paid to I. K., as polling agent £

Paid to L. M., as clerk for days' services } £

Paid to N. O., as messenger for days' services } £

[*The names and descriptions of every polling agent, clerk, and messenger, and the sum paid to each, must be set out separately either in the account or in a separate list annexed to and referred to in the account, thus, "Paid to I. K. as polling agent (or as the case may be) as per annexed list £"]*

Paid to the following persons in respect of goods supplied or work and labour done:

To P.Q. (printing) £

To M.N. (advertising)	£	Sched. II.
To R.S. (stationery)	£	
<i>[The name and description of each person, and the nature of the goods supplied, or the work and labour done by each, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]</i>		

Paid for postage	£	
Paid for telegrams	£	
Paid for the hire of rooms as follows :—		
For holding public meetings	£	
For committee rooms	£	

[A room hired for a public meeting or for a committee room must be named or described so as to identify it; and, the name and description of every person to whom any payment was made for each such room, together with the amount paid, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]

Paid for miscellaneous matters, namely— . £

[The name and description of each person to whom any sum is paid, and the reason for which it was paid to him, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]

In addition to the above, I am aware, as election agent for C.D., [or if the candidate is

Sched.
II.

*his own election agent, leave out "as election agent for C.D."] of the following disputed and unpaid claims; namely,—
Disputed claims.*

By T.U. for £

[*Here set out the name and description of each person whose claim is disputed, the amount of the claim, and the goods, work, or other matter on the ground of which the claim is based.]*

Unpaid claims allowed by the High Court to be paid after the proper time or in respect of which application has been or is about to be made to the High Court.

By M.O. for £

[*Here state the name and description of each person to whom any such claim is due, and the amount of the claim, and the goods, work, and labour or other matter on account of which the claim is due.]*

(Signed) A.B.

PART II.

FORM OF DECLARATION AS TO EXPENSES (a).

Form for candidate where declared a candidate or nominated in his absence and taking no part in the election.

I, _____, having been nominated [*or having been declared by others*] in my absence [*to be*] a candidate at the election for the county or borough of _____, held on the _____ day of _____, do hereby solemnly and sincerely declare that I have taken no part whatever in the said election.

And I further solemnly and sincerely declare that [*or*

(a) See s. 63 (2), (b).

with the exception of] I have not, and no person, club, society, or association at my expense has, made any payment or given, promised, or offered, any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.

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II.

And I further solemnly and sincerely declare that [or with the exception of] I have not paid any money or given any security or equivalent for money to the person acting as my election agent at the said election, or to any other person, club, society, or association on account of or in respect of the conduct or management of the said election, and that [or with the exception of] I am entirely ignorant of any money security or equivalent for money having been paid, advanced, given, or deposited by any one for the purpose of defraying any expenses incurred on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law (a), at any future time make or be party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security, or equivalent of money for the purpose of defraying any such expenses.

Signature of declarant *C.D.*

Signed and declared by the above-named declarant on the day of , before me,
(Signed) *E.F.*
Justice of the Peace for

(a) See ss. 29 (9), 33 (9).

Sched.
III.

THIRD SCHEDULE.

CORRUPT PRACTICES PREVENTION ACTS.

Session and Chapter.	Title of Act.	Enactments referred to as being the Corrupt Practices Prevention Acts.
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PART ONE.

Temporary.

17 & 18 Vict. c. 102.	The Corrupt Practices Prevention Act, 1854.	The whole Act so far as unrepealed.
26 Vict. c. 29.	An Act to amend and continue the law relating to corrupt practices at elections of members of Parliament.	The whole Act so far as unrepealed.
31 & 32 Vict. c. 125.	The Parliamentary Elections Act, 1868.	The whole Act so far as unrepealed.
35 & 36 Vict. c. 33.	The Ballot Act, 1872.	Part III. so far as unrepealed.
42 & 43 Vict. c. 75.	The Parliamentary Elections and Corrupt Practices Act, 1879.	The whole Act so far as unrepealed.

PART TWO.

Permanent.

20 & 31 Vict. c. 102.	The Representation of the People Act, 1867.	Sections eleven, forty-nine, and fifty.
31 & 32 Vict. c. 48.	The Representation of the People (Scotland) Act, 1868.	Sections eight and forty-nine.
31 & 32 Vict. c. 49.	The Representation of the People (Ireland) Act, 1868.	Sections eight and thirteen.
44 & 45 Vict. c. 40.	The Universities Elections Amendment (Scotland) Act, 1891.	Sub-section seventeen of section two.

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III.

PART THREE.

ENACTMENTS DEFINING THE OFFENCES OF BRIBERY AND PERSONATION.

The Corrupt Practices Prevention Act, 1854,
17 & 18 Vict. c. 102, ss. 2, 3.

2. The following persons shall be deemed guilty of ^{Bribery} _{defined.} bribery, and shall be punishable accordingly :—

(1.) Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election :

(2.) Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or to endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as

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aforesaid on account of any voter having voted or refrained from voting at any election :

- (3.) Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election :
- (4.) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure or engage, promise, or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election :
- (5.) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election : Provided always that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bond fide* incurred at or concerning any election.

3. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :—

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III.

- (1.) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election :
- (2.) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

Bribery
further
defined.

The Representation of the People Act, 1867,
30 & 31 Vict. c. 102, s. 49.

49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly ; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made,

Corrupt pay-
ment of rates
to be punish-
able as
bribery.

Sched. III. shall also be guilty of bribery, and punishable accordingly.

The Representation of the People (Scotland) Act, 1868,
31 & 32 Vict. c. 48, s. 49.

Corrupt payment of rates to be punishable as bribery.

49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly ; and any person on whose behalf and with whose privity any such payment as in this section mentioned is made shall also be guilty of bribery, and punishable accordingly.

The Universities Elections Amendment (Scotland) Act, 1881, 44 & 45 Vict. c. 40, s. 2.

Corrupt payment of registration fee to be punishable as bribery.

(17). Any person, either directly or indirectly, corruptly paying any fee for the purpose of enabling any person to be registered as a member of the general council, and thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying such fee on behalf of any person for the purpose of inducing him to vote or to refrain from voting, shall be guilty of bribery, and shall be punishable accordingly ; and any person on whose behalf and with whose privity any such payment as in this section mentioned is made, shall also be guilty of bribery, and punishable accordingly.

The Ballot Act, 1872, 35 & 36 Vict. c. 33, s. 24.

Sched.
III.

A person shall for all purposes of the laws relating to parliamentary and municipal elections be deemed to be guilty of the offence of personation who, at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name (a).
 Personation defined.

FOURTH SCHEDULE.

SHORT TITLES.

Sched.
IV.

Session and Chapter.	Long Title.	Short Title.
15 & 16 Vict. c. 57.	An Act to provide for more effectual inquiry into the existence of corrupt practices at the election of members to serve in Parliament.	Election Commissioners Act, 1852.
26 Vict. c. 29.	An Act to amend and continue the law relating to corrupt practices at elections of members of Parliament.	The Corrupt Practices Prevention Act, 1863.

(a) For remainder of this section, see Appendix, p. 213.

Sched. V.**FIFTH SCHEDULE.****ENACTMENTS REPEALED.**

NOTE.—Portions of Acts which have already been specifically repealed are in some instances included in the repeal in this Schedule in order to preclude henceforth the necessity of looking back to previous Acts.

A description or citation of a portion of an Act is inclusive of the words, section or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
60 Geo. 3 & 1 Geo. 4, c. 11. .	An Act for the better regulation of polls, and for making further provision touching the election of members to serve in Parliament for Ireland.	Section thirty-six.
1 & 2 Geo. 4, c. 58.	An Act to regulate the expenses of election of members to serve in Parliament for Ireland.	The whole Act, except section three.
4 Geo. 4, c. 55.....	An Act to consolidate and amend the several Acts now in force so far as the same relate to the election and return of members to	Section eighty-two.

Session and Chapter.	Title or Short Title.	Extent of Repeal.	<u>Sched. V.</u>
17 & 18 Vict. c. 102.	serve in Parliament for the counties of cities and counties of towns in Ireland. The Corrupt Practices Prevention Act, 1854.	Section one. Section two, from “and any person so offending” to “with full costs of suit.” Section three, from “and any person so offending” to the end of the sec- tion. Section four. Section five. Section six. Section seven, from “and all pay- ments” to the end of the section. Section nine, section fourteen, section twenty-three, sec- tion thirty-six, sec- tion thirty-eight, from “and the words personal ex- penses” to the end of the section, and section thirty-nine and Schedule A. The whole Act.	
21 & 22 Vict. c. 87.	An Act to continue and amend the Corrupt Practices Prevention Act, 1854.	The whole Act, ex- cept section six.	
26 Vict. c. 29.	An Act to amend and continue the law relat- ing to corrupt prac- tices at elections of members of Parlia- ment.		

Sched. V.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
30 & 31 Vict. c. 102.	The Representation of the People Act, 1867.	Section thirty-four, from "and in other boroughs the justices" to "greater part thereof is situate" and section thirty-six.
31 & 32 Vict. c. 48.	The Representation of the People (Scotland) Act, 1868.	Section twenty-five.
31 & 32 Vict. c. 49.	The Representation of the People (Ireland) Act, 1868.	Section twelve.
31 & 32 Vict. c. 58.	The Parliamentary Electors Registration Act, 1868.	Section eighteen, from "the power of dividing their county" to the end of the section.
31 & 32 Vict. c. 125.	The Parliamentary Elections Act, 1868.	So much of section three as relates to the definitions of "candidate." Section sixteen.
		Section thirty-three.
		Section thirty-six.
		Section forty-one, from "but according to the same principles" to "the High Court of Chancery."
		Section forty-three.
		Section forty-five.
		Section forty-six.
		Section forty-seven.
		Section fifty-eight, from "The principles" down to "in the court of session," being sub-section sixteen.

Session and Chapter.	Title or Short Title.	Extent of Repeal.	<u>Sched. V.</u>
35 & 36 Vict. c. 33.	The Ballot Act, 1872.	Section five, from the beginning down to "one hundred registered electors."	
42 & 43 Vict. c. 75.	The Parliamentary Elections and Corrupt Practices Act, 1879.	Section twenty-four, from "The offence of personation, or of aiding," to "hard labour," and from "The offence of personation shall be deemed to be" to the end of the section.	Section three and schedule.
43 Vict. c. 18. . . .	The Parliamentary Elections and Corrupt Practices Act, 1880.	The whole Act, except sections one and three.	

TABLES OF

TABLE I.—BOROUGHS AND UNIVERSITIES,

(EXCEPT THE FIVE AGRICULTURAL BOROUGHS MENTIONED IN TABLE II.)

NOS. OF ELECTORS. (Inclusive.)	MAXIMUM	
	For a Single Candidate.	For two Joint Can- didates.
1 to 2000 (a)....	350	525(b)
2001 to 2999.....	380	570
3000 to 3999.....	410	615
4000 to 4999.....	440	660
5000 to 5999.....	470	705
6000 to 6999.....	500	750
7000 to 7999.....	530	795
8000 to 8999.....	560	840
9000 to 9999.....	590	885
10000 to 10999.....	620	930
11000 to 11999.....	650	975
12000 to 12999.....	680	1020
13000 to 13999.....	710	1065
14000 to 14999.....	740	1110
15000 to 15999.....	770	1155
16000 to 16999.....	800	1200
17000 to 17999	830	1245
18000 to 18999	860	1290
19000 to 19999.....	890	1335
20000 to 20999	920	1380
25000 to 25999.....	1070	1605
30000 to 30999	1220	1830
35000 to 35999.....	1370	2055
40000 to 40999.....	1520	2280
45000 to 45999.....	1670	2505
50000 to 50999.....	1820	2730
55000 to 55999.....	1970	2955
60000 to 60999.....	2120	3180
65000 to 65999.....	2270	3405

(a) IRELAND.

The following is the scale for
small boroughs in Ireland only.

NOS. OF ELECTORS. (Inclusive.)	MAXIMUM For one Candidate.
1 to 500	£ 200
501 to 1000	250
1001 to 1500	275
1501 to 2000	350

And for larger num-
bers, the same as in
the Table.

(b) Three joint candidates may
spend twice the maximum for a
single candidate, while four may
spend eight-thirds of that maxi-
mum.

EXPENDITURE.

TABLE II.—COUNTIES
AND THE AGRICULTURAL BORBOURHS OF EAST RETFORD, SHOREHAM,
CRICKLADE, MUCH WENLOCK, AND AYLESBURY.

NOS. OF ELECTORS. (Inclusive.)	ENGLAND & SCOTLAND.		IRELAND.	
	MAXIMUM			
	For a Single Candidate.	For two Joint Candidates.	For a Single Candidate.	For two Joint Candidates.
1 to 2000	£ 650	£ 975	£ 500	£ 750 (c)
2001 to 2999	710	1065	540	810
3000 to 3999	770	1155	580	870
4000 to 4999	830	1245	620	930
5000 to 5999	890	1335	660	990
6000 to 6999	950	1425	700	1050
7000 to 7999	1010	1515	740	1110
8000 to 8999	1070	1605	780	1170
9000 to 9999	1130	1695	820	1230
10000 to 10999	1190	1785	860	1290
11000 to 11999	1250	1875	900	1350
12000 to 12999	1310	1965	940	1410
13000 to 13999	1370	2055	980	1470
14000 to 14999	1430	2145	1020	1530
15000 to 15999	1490	2235	1060	1590
16000 to 16999	1550	2325	1100	1650
17000 to 17999	1610	2415	1140	1710
18000 to 18999	1670	2505	1180	1770
19000 to 19999	1730	2595	1220	1830
20000 to 20999	1790	2685	1260	1890
21000 to 21999	1850	2775	1300	1950
22000 to 22999	1910	2865	1340	2010
23000 to 23999	1970	2955	1380	2070
24000 to 24999	2030	3045	1420	2130
25000 to 25999	2090	3135	1460	2190
30000 to 30999	2390	3585	1660	2490
35000 to 35999	2690	4035	1860	2790
40000 to 40999	2990	4485	2060	3090

(c) Three joint candidates may spend twice the maximum for a single candidate.

NOTE ON TABLES OF EXPENDITURE.

The preceding Tables give the maximum amounts of Expenditure which will be legal, under 46 & 47 Vict. c. 51, in the various Constituencies according to the Number of Electors on the register at the time of the Election. (See sec. 8, Sched. I., Parts IV. and V., above).

It may be interesting to compare in a few instances the new maximum expenditure with that actually returned as spent in the General Election of 1880. The amounts so returned are taken from the Parliamentary Paper (No. 382, Sess. 2 of 1880), and are exclusive of the returning officer's charges, which amounted in 1880 to £133,000, or less than $\frac{1}{10}$ th of the other expenses returned.

To take boroughs first:—In Hackney (43,773 electors) the two successful (joint) candidates spent together £921. They will now be allowed to spend £2,415. On the other hand, in Southwark (23,472 electors), the two successful (joint) candidates spent £7,567. They may now only spend £1,515.

In counties, we may take North Durham (13,165 electors), and Montgomeryshire (5,291 electors), as examples of expensive elections. In the first case the two successful (joint) candidates spent £10,510, as against the future maximum of £2,055; and the single unsuccessful candidate £12,434, as against £1,370. In the second case the two competing (single) candidates spent respectively £6,275 and £13,053. They would now each be allowed £890. Examples of cheap county elections are South Northumberland (8,800 electors), where the candidate at the head of the poll spent £1,004, as against the future maximum of £1,070, and Herefordshire (8,222 electors), where one of the successful candidates spent only £296, as against £1,070.

These examples are sufficient to show that while the maximum scale will no doubt enormously decrease the expense of most elections, it will be perfectly practicable to conduct elections successfully under the new conditions.

EFFECT OF THE ACT 46 & 47 VICT. c. 51, ON MUNICIPAL ELECTIONS.

Although this Act applies primarily only to parliamentary elections (see definition of "election," s. 64), yet it effects considerable changes in the law of municipal elections in England and Ireland.

Besides the direct application of ss. 37, 38, and 39 (1) to municipal election courts, the term "public office," used in the disqualifying provisions of ss. 6 (3), 10, and 37 includes any municipal office (s. 64). Moreover, the effect of this Act is indirectly extended by the Municipal Corporations Acts.

By s. 78 of the English Municipal Corporations Act (45 & 46 Vict. c. 50) "a person guilty of a corrupt practice at a municipal election is liable to the like actions, prosecutions, penalties, forfeitures, and punishments as if the corrupt practice had been committed at a parliamentary election." (The incapacities and disqualifications are different, and are specified in s. 79.) By s. 77 of the same Act "corrupt practice" is defined to mean "bribery, treating, undue influence, and personalation," and these terms "include respectively anything done before, at, after, or with respect to a municipal election, which, if done before, at, after, or with respect to a parliamentary election would make the person doing the same liable to any penalty, punishment, or disquali-

fication for bribery, treating, undue influence, or personalation as the case may be, under any Act for the time being in force, with respect to the parliamentary elections." *Of ss. 3, 4 of the Irish Act (35 & 36 Vict. c. 60).*

It will thus be seen that under the new Act—

- (1.) The new definitions of treating and undue influence (ss. 1, 2) will apply to municipal as well as parliamentary elections.
- (2.) The punishments for the offences of bribery, treating, and undue influence committed at municipal elections will be altered by s. 6 (1) of the new Act. On the other hand the disqualifications imposed by s. 6 (3), (4) will not follow convictions for municipal election offences.
- (3.) The provisions of s. 38 of the new Act (except sub-ss. (2)—(4), and (9)) will apply to all persons reported guilty of corrupt practices at an election by a Municipal Election Court. Such persons will accordingly be subject to the same incapacities as if they had at the date of the election been convicted of such corrupt practices (*i.e.*, to the incapacities imposed by s. 79 of 45 & 46 Vict. c. 50), and also if magistrates, barristers, solicitors, &c., or licensed victuallers, will be liable to be reported to the authorities mentioned in s. 38 (6)—(8) of the new Act, with the consequent

results (see notes to that section). They will also be liable under s. 39 to have their names inserted in the corrupt practices list.

- (4.) Lastly, persons guilty of corrupt or illegal practices at parliamentary elections, on being convicted or reported guilty by election judges or commissioners will lose the right of voting in municipal elections and holding any municipal office (see ss. 6 (3), 10, 37, 64).

Of the above only (4) will apply to Scotland, since in that country there is no legislation as to corrupt practices at municipal elections.

Schoolboard elections will also be affected by the definitions of "treating," "undue influence," and "public office," in the new Act (see s. 64, and 33 & 34 Vict. c. 75, s. 91).



APPENDIX.

PART I.

CORRUPT PRACTICES PREVENTION ACTS.

(*Temporary, continued until December 31st, 1884, by 46 & 47 Vict. c. 15, s. 70.*)

THE CORRUPT PRACTICES PREVENTION ACT, 1854. Append. 17 & 18 VICT. C. 102.

An Act to consolidate and amend the Laws relating to Bribery, Treating, and undue Influence at Elections of Members of Parliament. [10th August, 1854.]

[Ss. 2, 3 (definitions of bribery) are set out at pp. 181—183 above.]

7. No candidate before, during, or after any election shall, in Nocockades regard to such election, by himself or agent, directly or indirectly, give or provide to or for any person having a vote at such election, or to or for any inhabitant of the county, city, borough, or place for which such election is had, any cockade, ribbon, or other mark of distinction ; and every person so giving or providing shall for every such offence forfeit the sum of two pounds to such person as shall sue for the same, together with full costs of suit [*remainder repealed*].

8. [Voters not compellable to serve as special constables during elections.]

10. It shall be lawful for any criminal court before which any prosecution shall be instituted for any offence against the provisions of this Act to order payment to the prosecutor of such costs and expenses as to the said court shall appear to have been reasonably incurred in and about the conduct of such prosecution : Provided

Costs and
expenses of
prosecu-
tions.

Append. always, that no indictment for bribery or undue influence shall be triable before any court of quarter sessions.

In cases of private prosecutions if judgment be given for the defendant he shall recover costs from the prosecutor.

12. In case of any indictment or information by a private prosecutor for any offence against the provisions of this Act, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the defendant by reason of such indictment or information, such costs to be taxed by the proper officer in the court by which such judgment shall be given.

Prosecutor not to be entitled to costs unless he shall have entered into a recognizance to conduct prosecution and pay costs.

13. It shall not be lawful for any court to order payment of the costs of a prosecution for any offence against the provisions of this Act, unless the prosecutor shall, before or upon the finding of the indictment or the granting of the information, enter into a recognizance, with two sufficient sureties, in the sum of two hundred pounds (to be acknowledged in like manner as is now required in cases of writs of *certiorari* awarded at the instance of a defendant in an indictment), with the conditions following: that is to say, that the prosecutor shall conduct the prosecution with effect, and shall pay to the defendant or defendants, in case he or they shall be acquitted, his or their costs.

In actions for penalties, parties, &c., to be competent witnesses.

35. On the trial of any action for recovery of any pecuniary penalty under this Act, the parties to such action, and the husbands and wives of such parties respectively, shall be competent and compellable to give evidence in the same manner as parties and their husbands and wives are competent and compellable to give evidence in actions and suits under the Act of the fourteenth and fifteenth Victoria, chapter ninety-nine, and "The Evidence Amendment Act, 1853," but subject to and with the exceptions contained in such several Acts: Provided always, that any such evidence shall not thereafter be used in any indictment or criminal proceeding under this Act against the party giving it.

Interpretation of terms.

37. [Short title.]

38. Throughout this Act, in the construction thereof, except there be something in the subject or context repugnant to such construction, the word "county" shall extend to and mean any county, riding, parts or division of a county, stewartry, or com-

bined counties, respectively returning a member or members to serve in Parliament ; and the words "city or borough" shall mean any university, city, borough, town corporate, county of a city, county of a town, cinque port, district of burghs, or other place or combination of places (not being a county as hereinbefore defined) returning a member or members to serve in Parliament ; and the word "election" shall mean the election of any member or members to serve in Parliament ; and the words "returning officer" shall apply to any person or persons to whom, by virtue of his or their office, under any law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in Parliament, by whatever name or title such person or persons may be called ; and the words "revising barrister" shall extend to and include an assistant barrister and chairman presiding in any court held for the revision of the lists of voters, or his deputy in Ireland, and a sheriff or sheriff's court of appeal in Scotland, and every other person whose duty it may be to hold a court for the revision and correction of the lists or registers of voters in any part of the United Kingdom ; and the word "voter" shall mean any person who has or claims to have a right to vote in the election of a member or members to serve in Parliament [*remainder repealed*].

Append.

THE CORRUPT PRACTICES PREVENTION ACT, 1863.

26 VICT. C. 29.

An Act to amend and continue the Law relating to Corrupt Practices at Elections of Members of Parliament.

[8th June, 1863.]

6. In any indictment or information for bribery or undue influence, and in any action or proceeding for any penalty for bribery, treating, or undue influence, it shall be sufficient to ^{allegations} _{sufficient in} _{indictments.} allege that the defendant was at the election, at or in connexion with which the offence is intended to be alleged to have been committed, guilty of bribery, treating, or undue influence (as the case may require) ; and in any criminal or civil proceedings in relation to any such offence the certificate of the returning officer

Append. in this behalf shall be sufficient evidence of the due holding of the election, and of any person therein named having been a candidate thereat. [Remainder of Act repealed.]

THE PARLIAMENTARY ELECTIONS ACT, 1868.
31 & 32 VICT. C. 125.

An Act for amending the Laws relating to Election Petitions, and providing more effectually for the Prevention of Corrupt Practices at Parliamentary Elections.

[31st July, 1868.]

1. [Short title of Act.]

Definition and jurisdiction of court.

2. The expression "the court" shall, for the purposes of this Act, in its application to England, mean [the Court of Common Pleas at Westminster (*a*)], and in its application to Ireland [the Court of Common Pleas at Dublin (*b*)] and such court shall, subject to the provisions of this Act, have the same powers, jurisdiction, and authority with reference to an election petition and the proceedings thereon as it would have if such petition were an ordinary cause within their jurisdiction.

Interpretation of terms.

3. The following terms shall in this Act have the meanings hereinafter assigned to them, unless there is something in the context repugnant to such construction ; (that is to say)

"Metropolitan district" shall mean the city of London and the liberties thereof, and any parish or place subject to the jurisdiction of the Metropolitan Board of Works :

"Election :" "Election" shall mean an election of a member or members to serve in Parliament :

"County :" "County" shall not include a county of a city, or county of a town, but shall mean any county, riding, parts, or division of a county returning a member or members to serve in Parliament :

"Borough :" "Borough" shall mean any borough, university, city, place, or combination of places, not being a county as herein-

(*a*) Now the Queen's Bench Division of the High Court of Justice (41 & 45 Vict. c. 68, s. 13).

(*b*) Now the Common Pleas Division of the High Court of Justice in Ireland (40 & 41 Vict. c. 57, s. 36).

before defined, returning a member or members to serve Append.
in Parliament :

"Corrupt practices" or "corrupt practice" shall mean "Corrupt bribery, treating, and undue influence, or any of such offences, as defined by Act of Parliament, or recognised by the common law of Parliament :

"Rules of court" shall mean rules to be made as hereinafter mentioned : "Rules of court;"

"Prescribed" shall mean prescribed by the rules of court. "Pre-
scribed." 4. For the purposes of this Act "Speaker" shall be deemed to include deputy Speaker ; and when the office of Speaker is vacant, the clerk of the House of Commons, or any other officer for the time being performing the duties of the clerk of the House of Commons, shall be deemed to be substituted for and to be included in the expression "the Speaker." Provision as to Speaker.

Presentation and Service of Petition.

5. From and after the next dissolution of Parliament a petition To whom complaining of an undue return or undue election of a member whom elec-
to serve in Parliament for a county or borough may be presented petition
may be pre-
[the Court of Common Pleas at Westminster] (a) if such county sented.
or borough is situate in England, or to [the Court of Common Pleas at Dublin] (a) if such county or borough is situate in Ireland,
by any one or more of the following persons :—

(1.) Some person who voted or who had a right to vote at the election to which the petition relates ; or,

(2.) Some person claiming to have had a right to be returned or elected at such election ; or,

(3.) Some person alleging himself to have been a candidate at such election :

And such petition is hereinafter referred to as an election petition.

6. The following enactments shall be made with respect to the presentation of an election petition under this Act : Regulations as to presen-
tation of election petition.

(1.) The petition shall be signed by the petitioner, or all the petitioners if more than one :

a) See note to s. 2 above.

Append.

- (2.) The petition shall be presented within twenty-one days after the return has been made to the clerk of the Crown in Chancery in England, or to the clerk of the Crown and hanaper in Ireland, as the case may be, of the member to whose election the petition relates, unless it question the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other reward to have been made by any member, or on his account, or with his privity, since the time of such return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment :
- (3.) Presentation of a petition shall be made by delivering it to the prescribed officer or otherwise dealing with the same in manner prescribed :
- (4.) At the time of the presentation of the petition, or within three days afterwards, security for the payment of all costs, charges, and expenses that may become payable by the petitioner—
 - (a) to any person summoned as a witness on his behalf, or,
 - (b) to the member whose election or return is complained of (who is hereinafter referred to as the respondent),
 shall be given on behalf of the petitioner :
- (5.) The security shall be to an amount of one thousand pounds ; it shall be given either by recognizance to be entered into by any number of sureties not exceeding four, or by a deposit of money in manner prescribed, or partly in one way and partly in the other.

**Copy of
petition
after pre-
sentation
to be sent
to return-
ing officer.**

7. On presentation of the petition the prescribed officer shall send a copy thereof to the returning officer of the county or borough to which the petition relates, who shall forthwith publish the same in the county or borough, as the case may be.

[Ss. 8—10 relate to objections to recognizances of petitioners and making a list of election petitions].

Trial of a Petition.

11. The following enactments shall be made with respect to the trial of election petitions under this Act :—
Mode of trial of election petitions.
 [Sub-ss. (1)—(8) provide for the formation of a rota of election judges] (a).
- (9.) Every election petition shall, except where it raises a question of law for the determination of the Court, as herein-after mentioned, be tried by [one of the judges herein-before in that behalf mentioned] (b) hereinafter referred to as the judge, sitting in open court without a jury.
- (10.) Notice of the time and place at which an election petition will be tried shall be given, not less than fourteen days before the day on which the trial is held, in the prescribed manner.
- (11.) The trial of an election petition in the case of a petition relating to a borough election shall take place in the borough, and in the case of a petition relating to a county election in the county : Provided always, that if it shall appear to the Court that special circumstances exist which render it desirable that the petition should be tried elsewhere than in the borough or county, it shall be lawful for the Court to appoint such other place for the trial as shall appear most convenient : Provided also, that in the case of a petition relating to any of the boroughs within the metropolitan district, the petition may be heard at such place within the district as the Court may appoint.
- (12.) The judge presiding at the trial may adjourn the same from time to time (c) and from any one place to any other place within the county or borough, as to him may seem expedient.
- (13.) At the conclusion of the trial the judge who tried the petition shall determine whether the member whose return or election is complained of, or any and what other person, was duly returned or elected, or whether the election was void, and shall forthwith certify in writing such determination to the Speaker, and upon such certificate being given, such determination shall be final to all intents and purposes.

(a) Now amended by 44 & 45 Vict. c. 68, s. 13.

(b) Now two judges. See 42 & 43 Vict. c. 75, s. 2 below, p. 215.

(c) But see 46 & 47 Vict. c. 51, s. 42 (p. 98).

Append.

- (14.) Where any charge is made in an election petition of any corrupt practice having been committed at the election to which the petition refers, the judge shall, in addition to such certificate, and at the same time, report in writing to the Speaker as follows :—
- (a) Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election and the nature of such corrupt practice ;
 - (b) The names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt practice ;
 - (c) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election to which the petition relates.
- (15.) The judge may at the same time make a special report to the Speaker as to any matters arising in the course of the trial, an account of which in his judgment ought to be submitted to the House of Commons.
- (16.) Where, upon the application of any party to a petition made in the prescribed manner to the Court, it appears to the Court that the case raised by the petition can be conveniently stated as a special case, the Court may direct the same to be stated accordingly, and any such special case shall, as far as may be, be heard before the Court, and the decision of the Court shall be final ; and the Court shall certify to the Speaker its determination in reference to such special case.

**Applications
to the Court
respecting
trials.**

12. Provided always, that if it shall appear to the judge on the trial of the said petition that any question or questions of law as to admissibility or otherwise require further consideration by the Court of Common Pleas, then it shall be lawful for the said judge to postpone the granting of the said certificate until the determination of such question or questions by the Court, and for this purpose to reserve any such question or questions in like manner as questions are usually reserved by a judge on a trial at *Nisi Prius*.

13. The House of Commons, on being informed by the Speaker **Append.** of such certificate and report or reports, if any, shall order the same to be entered in their journals, and shall give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution, as circumstances may require.

14. Where the judge makes a special report, the House of Commons **House of Commons may make order on special report.** may make such order in respect of such special report as they think proper.

15. If the judge states in his report on the trial of an election petition under this Act that corrupt practices have, or that there is reason to believe that corrupt practices have, extensively prevailed in any county or borough at the election to which the petition relates, such statement shall for all the purposes of the Act of the session of the fifteenth and sixteenth years of the reign of her present Majesty, chapter fifty-seven (*a*), intituled "An Act to provide for more effectual Inquiry into the existence of corrupt Practices at Elections of Members to serve in Parliament," have the same effect and may be dealt with in the same manner as if it were a report of a committee of the House of Commons appointed to try an election petition, and the expenses of any commission of inquiry which may be issued in accordance with the provisions of the said Act shall be defrayed as if they were expenses incurred in the registration of voters for such county or borough (*b*).

17. On the trial of an election petition under this Act, unless the judge otherwise directs, any charge of a corrupt practice may be gone into and evidence in relation thereto received before any proof has been given of agency on the part of any candidate in respect of such corrupt practice. **Evidence of corrupt practices how received.**

18. The trial of an election petition under this Act shall be proceeded with notwithstanding the acceptance by the respondent of an office of profit under the crown. **Acceptance of office not to stop petition.**

19. The trial of an election petition under this Act shall be proceeded with notwithstanding the prorogation of Parliament. **Prorogation of Parliament.**

[Ss. 20—24 relate to the form and service of, and proceedings on the trial of election petitions.]

(*a*) For the provisions of this Act, see note to s. 12 of 46 and 47 Vict. c. 51 (p. 31).

(*b*) See 32 & 33 Vict. c. 21; 34 & 35 Vict. c. 61.

Append.

Rules to
be made
by Court.

25. [The judges for the time being on the rota for the trial of election petitions in England and Ireland] (a) may respectively from time to time make, and may from time to time revoke and alter, general rules and orders (in this Act referred to as the rules of Court), for the effectual execution of this Act, and of the intention and object thereof, and the regulation of the practice, procedure, and costs of election petitions, and the trial thereof, and the certifying and reporting thereon.

Any general rules and orders made as aforesaid shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if they were enacted in the body of this Act.

Any general rules and orders made in pursuance of this section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

Practice of
House of
Commons
to be ob-
served.

26. Until rules of Court have been made in pursuance of this Act, and so far as such rules do not extend, the principles, practice, and rules on which committees of the House of Commons have heretofore acted in dealing with election petitions shall be observed so far as may be by the Court and judge in the case of election petitions under this Act.

27. [Performance of duties by prescribed officer.]

Reception, Expenses, and Jurisdiction of Judge.

Reception
of judge.

28. The judge shall be received at the place where he is about to try an election petition under this Act with the same state, so far as the circumstances admit, as a judge of assize is received at an assize town; he shall be received by the sheriff in the case of a petition relating to a county election, and in any other case by the mayor in the case of a borough having a mayor, and in the case of a borough not having a mayor by the sheriff of the county in which the borough is situate, or by some person named by such sheriff.

The travelling and other expenses of the judge, and all expenses

(a) See s. 56 (2) of 46 & 47 Vict. c. 51 (p. 124).

properly incurred by the sheriff or by such mayor or person named Append.
as aforesaid in receiving the judge and providing him with necessary accommodation and with a proper court, shall be defrayed by the commissioners of the treasury out of money to be provided by parliament.

29. On the trial of an election petition under this Act the judge ^{Power of} shall, subject to the provisions of this Act, have the same powers, jurisdiction, and authority as a judge of one of the superior courts and as a judge of assize and Nisi Prius, and the court held by him shall be a court of record.

30. The judge shall be attended on the trial of an election ^{Attendance} petition under this Act in the same manner as if he were a judge ^{on judge.} sitting at Nisi Prius, and the expenses of such attendance shall be deemed to be part of the expenses of providing a court.

[Ss. 31, 32, and 34, relate to the summons, examination, and expenses of witnesses.]

Withdrawal and Abatement of Election Petitions.

35. An election petition under this Act shall not be withdrawn without the leave of the Court [or Judge] (a) upon special application, to be made in and at the prescribed manner, time, and place (b).

No such application shall be made for the withdrawal of a petition until the prescribed notice has been given in the county or borough to which the petition relates of the intention of the petitioner to make an application for the withdrawal of his petition.

On the hearing of the application for withdrawal any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court or Judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

The Court or Judge may, if it or he think fit, substitute as a petitioner any such applicant as aforesaid; and may further, if the proposed withdrawal is in the opinion of the Court or Judge

(a) Now two judges. See 42 & 43 Vict. c. 75, s. 2 (p. 215).

(b) This section is amended by s. 41 of 46 & 47 Vict. c. 51 (p. 92).

Append.

induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner.

If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within the prescribed time after the order of substitution.

Subject as aforesaid a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petitioner.

If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

**Abatement
of petition.**

37. An election petition under this Act shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred.

On the abatement of a petition the prescribed notice of such abatement having taken place shall be given in the county or borough to which the petition relates, and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or Judge, in and at the prescribed manner, time and place, to be substituted as a petitioner.

The Court or Judge may, if it or he think fit, substitute as a petitioner any such applicant who is desirous of being substituted, and on whose behalf security to the same amount is given as is required in the case of a new petition.

Admission

38. If before the trial of any election petition under this Act

any of the following events happen in the case of the respondent ; Append.
(that is to say),

- (1.) If he dies :
- (2.) If he is summoned to Parliament as a peer of Great Britain
by a writ issued under the Great Seal of Great Britain :
- (3.) If the House of Commons have resolved that his seat is
vacant :
- (4.) If he gives in and at the prescribed manner and time
notice to the Court that he does not intend to oppose the
petition :

in certain
cases of
voters to be
respondents.

Notice of such event having taken place shall be given in the county or borough to which the petition relates, and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court or Judge to be admitted as a respondent to oppose the petition, and such person shall on such application be admitted accordingly, either with the respondent, if there be a respondent, or in place of the respondent ; and any number of persons not exceeding three may be so admitted.

39. A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against such petition in any proceedings thereon, and shall not sit or vote in the House of Commons until the House of Commons has been informed of the report on the petition, and the Court or Judge shall in all cases in which such notice has been given in the prescribed time and manner report the same to the Speaker of the House of Commons.

40. [Provisions for cases of double return where the member complained of declines to defend his return.]

Costs.

41. All costs, charges, and expenses of and incidental to the General costs of presentation of a petition under this Act, and to the proceedings petitions, consequent thereon, with the exception of such costs, charges, and expenses as are by this Act otherwise provided for (a), shall be defrayed by the parties to the petition in such manner and in such proportions as the Court or Judge may determine, regard being had to the disallowance of any costs, charges, or expenses

Respondent
not oppos-
ing not to
appear as
party or
to sit.

(a) See ss. 28, 30, above (p. 206).

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which may, in the opinion of the Court or Judge, have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or the respondent, and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful.

The costs [may be taxed in the prescribed manner (a) . . . and such costs] may be recovered in the same manner as the costs of an action at law, or in such other manner as may be prescribed.

[S. 42 relates to recognizance of petitioner.]

Punishment of corrupt Practices.

Penalty for employing corrupt agent.

41. If on the trial of any election petition under this Act any candidate is proved to have personally engaged at the election to which such petition relates as a canvasser or agent for the management of the election, any person knowing that such person has within seven years previous to such engagement been found guilty of any corrupt practice by any competent legal tribunal, or been reported guilty of any corrupt practice by a committee of the House of Commons, or by the report of the Judge upon an election petition under this Act, or by the report of commissioners appointed in pursuance of the Act of the session of the fifteenth and sixteenth years of the reign of her present Majesty, chapter fifty-seven, the election of such candidate shall be void.

Miscellaneous.

Calculation of time.

48. [Returning officer may be sued for neglecting to return any person duly elected.]

Controverted elections to be tried under Act.

Returning officer if

49. In reckoning time for the purposes of this Act, Sunday, Christmas Day, Good Friday, and any day set apart for a public fast or public thanksgiving shall be excluded.

50. From and after the next dissolution of Parliament no election or return to Parliament shall be questioned except in accordance with the provisions of this Act.

51. Where an election petition under this Act complains of the

(a) As to taxation of these costs, see s. 44 (3) of 46 & 47 Vict. c. 51 (p. 106).

conduct of a returning officer, such returning officer shall for all the purposes of this Act, except the admission of respondents in his place, be deemed to be a respondent.

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complained
of to be re-
spondent.

52. A petition under this Act complaining of no return may be presented to the Court, and shall be deemed to be an election petition within the meaning of this Act, and the Court may make such order thereon as they think expedient for compelling a return to be made, or may allow such petition to be heard by the Judge in manner hereinbefore provided with respect to ordinary election petitions.

Petition
complain-
ing of no
return.

53. On the trial of a petition under this Act complaining of an undue return, and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue in the same manner as if he had presented a petition complaining of such election.

Recrimina-
tion when
petition
for undue
return.

54. [Repeal of Acts.]

55. [Provision as to payment of additional judges.]

56. If upon a petition to the House of Commons, presented within twenty-one days after the return to the clerk of the Crown in Chancery in England, or to the clerk of the Crown and hanaper in Ireland, of a member to serve in Parliament for any borough or county, or within fourteen days after the meeting of Parliament, and signed by any two or more electors of such borough or county, and alleging that corrupt practices have extensively prevailed at the then last election for such borough or county, or that there is reason to believe that corrupt practices have there so prevailed, an address be presented by both Houses of Parliament, praying that such allegations may be inquired into, the Crown may appoint commissioners to inquire into the same, and if such commissioners in such case be appointed, they shall inquire in the same manner and with the same powers and subject to all the provisions of the statute of the fifteenth and sixteenth of Victoria, chapter fifty-seven (*a*).

Commis-
sions of in-
quiry into
corrupt
practices.

[S. 57 saves the rights of parliamentary agents practising at the time of the passing of this Act to practise in cases of election petitions.]

58. The provisions of this Act shall apply to Scotland, subject to the following modifications:—

Application
of Act to
Scotland.

(a) See note to s. 12 of 46 & 47 Vict. c. 51 (p. 31).

Append.

- (1.) The expression "the Court" shall mean either division of the inner house of the Court of Session, and either of such divisions shall have the same powers, jurisdiction, and authority with reference to an election petition in Scotland, and the proceedings thereon, which by this Act are conferred on the Court of Common Pleas at Westminster with respect to election petitions in England :
- (2.) The expression "county" shall not include a county of a city, but shall mean any county or division of a county, or any combination of counties, or of counties and portions of counties, returning a member to serve in Parliament :
- (3.) The expression "borough" shall mean any university or universities, or any city, town, burgh, or district of cities towns, or burghs, returning a member or members to serve in Parliament :
- (4.) "Recognizance" shall mean a bond of caution with usual and necessary clauses :
[Sub-s. (5)—(12) provide for a rota of election judges, and the duties of the prescribed officer in Scotland.]
- (13.) The judge shall be received at the place where he is about to try an election petition under this Act in the same manner and by the same authorities, as far as circumstances admit, as a judge of the court of justiciary is received at a circuit town, and he shall be attended by such officer or officers as shall be necessary :
- (14.) The travelling and other expenses of the judge, and of the officer or officers in attendance upon him, and all expenses properly incurred in providing the judge with a proper court, shall be defrayed by the commissioners of the treasury out of money to be provided by Parliament :
- (15.) On the trial of an election petition under this Act, the judge shall, subject to the provisions of this Act, have the same powers, jurisdictions and authority as a judge of the Court of Session presiding at the trial of a civil cause without a jury.
- (17.) Any of Her Majesty's courts of record at Westminster shall in Scotland mean the Court of Session in Scotland :
[Sub-s. (18) relates to the recognizance of petitioner.]

59. [Duration of Act.]

Append.

THE BALLOT ACT, 1872.

(35 & 36 VICT. C. 33.)

PART III.

Personation.

24. The following enactments shall be made with respect to personation at parliamentary and municipal elections:—

Definition
and punish-
ment of
personation.

A person shall for all purposes of the laws relating to parliamentary and municipal elections be deemed to be guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot paper in his own name (a) It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the Court in the same manner in which courts are empowered to allow the same in cases of felony.

The provisions of the Registration Acts, specified in the Third Schedule to this Act (b), shall in England and Ireland respectively apply to personation under this Act in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Acts. . . .

(a) For punishment of personation, see s. 6 (2) of 46 & 47 Vict. c. 51 (p. 18).

(b) 6 & 7 Vict. c. 18, ss. 85 to 89 (as to England), and 13 & 14 Vict. c. 60, ss. 92 to 96 (as to Ireland). See note to s. 64 of 46 & 47 Vict. c. 51 (p. 139).

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Vote to be struck off for bribery, treating, or undue influence.

25. Where a candidate, on the trial of an election petition claiming the seat for any person, is proved to have been guilty by himself or by any person on his behalf, of bribery, treating, or undue influence in respect of any person who voted at such election, or where any person retained or employed for reward (a), by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward as aforesaid.

Alterations in Act as applying to Scotland.

26. This part of this Act shall apply to Scotland, subject to the following provision :—

The offence of personation shall be deemed to be a crime and offence, and the rules of the law of Scotland, with respect to apprehension, detention, precognition, commitment, and bail shall apply thereto, and any person accused thereof may be brought to trial in the court of justiciary, whether in Edinburgh or on circuit, at the instance of the Lord Advocate, or before the Sheriff Court, at the instance of the procurator fiscal.

Construction of part of Act.

27. This part of this Act, so far as regards parliamentary elections, shall be construed as one with "The Parliamentary Elections Act, 1868," and shall apply to an election for a university or combination of universities.

THE PARLIAMENTARY ELECTIONS AND CORRUPT PRACTICES ACT, 1879.

42 & 43 VICT. C. 75.

An Act to amend and continue the Acts relating to Election Petitions, and to the prevention of Corrupt Practices at Parliamentary Elections. [15th August, 1879.]

1. [Short title.]

Trial of election peti- 2. The trial of every election petition and the hearing of an application for the withdrawal of an election petition shall be

(a) See 30 & 31 Vict. c. 102, s. 11 (p. 215).

conducted before two judges instead of one, and the Parliamentary Elections Act, 1868, shall be construed as if for the purpose of hearing and determining the petition at the trial, and of hearing and determining any application for the withdrawal of an election petition two judges were mentioned, and additional judges shall, if necessary, be placed on the rota accordingly.

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tion to be
conducted
before two
Judges.
31 & 32 Vict.
c. 125.

Every certificate and every report sent to the Speaker in pursuance of the said Act shall be under the hands of both judges, and if the judges differ as to whether the member whose return or election is complained of was duly returned or elected they shall certify that difference, and the member shall be deemed to be duly elected or returned ; and if the judges determine that such member was not duly elected or returned, but differ as to the rest of the determination, they shall certify that difference, and the election shall be deemed to be void ; and if the judges differ as to the subject of a report to the Speaker, they shall certify that difference and make no report on the subject on which they so differ.

Save as aforesaid, any order, act, application, or thing for the purposes of the said Act may continue to be made or done by, to, or before one judge. The expenses incident to the sitting of two judges shall be defrayed as the expenses of one judge are payable under the provisions of the said Act.

PART II.

CORRUPT PRACTICES PREVENTION ACTS.

(*Permanent*).

THE REPRESENTATION OF THE PEOPLE ACT, 1867. 30 & 31 VICT. c. 102.

An Act further to amend the Laws relating to the Representation of the People in England and Wales.

[15th August, 1867.]

11. No elector who within six months before or during any election

Append. who has been employed for reward within six months of an election to be entitled to vote.

Corrupt payment of rates to be punishable as bribery.

Returning officer, &c., acting as agent guilty of misdemeanor.

election for any county or borough shall have been retained, hired or employed for all or any of the purposes of the election for reward by or on behalf of any candidate at such election as agent, canvasser, clerk, messenger or in other like employment, shall be entitled to vote at such election, and if he shall so vote he shall be guilty of a misdemeanor.

49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and such person on whose behalf and with whose privity any such payment as in this section is mentioned is made shall also be guilty of bribery, and punishable accordingly.

50. No returning officer for any county or borough, nor his deputy, nor any partner or clerk of either of them, shall act as agent for any candidate in the management or conduct of his election as a member to serve in parliament for such county or borough; and if any returning officer, his deputy, the partner or clerk of either of them, shall so act, he shall be guilty of a misdemeanor.

THE REPRESENTATION OF THE PEOPLE (SCOTLAND)

ACT, 1868.

31 & 32 VICT. C. 48.

8. [Same as 30 & 31 Vict. c. 102, s. 11, above.]

49. [Same as 30 & 31 Vict. c. 102, s. 49, above.] For this section and 44 & 45 Vict. c. 40, s. 2 (17), see Schedule III., Part III. of 46 & 47 Vict. c. 51 (page 184).

THE REPRESENTATION OF THE PEOPLE (IRELAND)

ACT, 1868.

31 & 32 VICT. C. 49.

8. [Same as 30 & 31 Vict. c. 102, s. 11, above.]

13. [Same as 30 & 31 Vict. c. 102, s. 50, above.]

N.B.—*The following enactment (not mentioned in Sched. III. Append. Pt. II. of 46 & 47 Vict. c. 51) is added to complete the Corrupt Practices Prevention Acts applicable to Ireland.*

1 & 2 GEO. 4, c. 58.

An Act to regulate the expenses of elections of members to serve in Parliament for Ireland. [23rd June, 1821.]

3. And be it further enacted, That no person to be hereafter elected to serve in Parliament for any county, city, town or borough, shall, by himself, his friends or agents, or by any person or persons employed in his behalf, directly or indirectly give any fee or reward of any kind, or make any payment of money by way of compliment or gratuity, or upon any account whatever, to any sheriff, under sheriff, deputy sheriff, returning officer or deputy returning officer, clerk of the peace or deputy clerk of the peace; and that every such person or persons, who shall so give any fee or reward of any kind, or make any payment of money by way of compliment or gratuity, or upon any account whatever, to any sheriff or under sheriff, deputy sheriff, returning officer, deputy returning officer, clerk of the peace or deputy clerk of the peace, shall be and is and are hereby declared to be disabled and incapacitated to serve in Parliament upon such election for such county, city, town or borough.

[*Remainder of Act repealed.*]

PART III.

THE PARLIAMENTARY ELECTIONS (RETURNING OFFICERS) ACT, 1875.

38 & 39 VICT. c. 84.

An Act to regulate the Expenses and to control the Charges of Returning Officers at Parliamentary Elections.

[13th August, 1875.]

1. The Ballot Act, 1872, as modified by this Act, and this Act Construction of Act. shall be construed as one Act.

This Act shall apply only to parliamentary elections.

2. The returning officer at an election shall be entitled to his Payments to

Append
returning officers..

reasonable charges, not exceeding the sums mentioned in the first schedule to this Act, in respect of services and expenses of the several kinds mentioned in the said schedule, which have been properly rendered or incurred by him for the purposes of the election.

The amount of such charges shall be paid by the candidates at the election in equal several shares, or where there is only one candidate, by such candidate. If a candidate is nominated without his consent, the persons by whom his nomination is subscribed shall be jointly and severally liable for the share of the charges for which he would be liable if he were nominated with his consent.

A returning officer shall not be entitled to payment for any other services or expenses, or at any greater rates than as in the said schedule mentioned, any law or usage to the contrary notwithstanding.

3. The returning officer, if he think fit, may, as hereinafter provided, require security to be given for the charges which may become payable under the provisions of this Act in respect of any election.

The total amount of the security which may be required in respect of all the candidates at an election shall not in any case exceed the sums prescribed in the third schedule to this Act.

Where security is required by the returning officer it shall be apportioned and given as follows; viz.,

(1.) At the end of the two hours appointed for the election the returning officer shall forthwith declare the number of the candidates who then stand nominated, and shall, if there be more candidates nominated than there are vacancies to be filled up, apportion equally among them the total amount of the required security :

(2.) Within one hour after the end of the two hours aforesaid, security shall be given, by or in respect of each candidate then standing nominated, for the amount so apportioned to him :

(3.) If in the case of any candidate security is not given or

Returning officer may require deposit or security.

tendered as herein mentioned, he shall be deemed to be withdrawn within the provisions of the Ballot Act 1872 :

- (4.) A tender of security in respect of a candidate may be made by any person :
 - (5.) Security may be given by deposit of any legal tender or of notes of any bank being commonly current in the county or borough for which the election is held, or, with the consent of the returning officer, in any other manner :
 - (6.) The balance (if any) of a deposit beyond the amount to which the returning officer is entitled in respect of any candidate shall be repaid to the person or persons by whom the deposit was made.
4. Within twenty-one days after the day on which the return is made of the persons elected at the election, the returning officer shall transmit to every candidate or other person from whom he claims payment either out of any deposit or otherwise of any charges in respect of the election, or (d) to the agent for election expenses of any such candidate, a detailed account showing the amounts of all the charges claimed by the returning officer in respect of the election, and the share thereof which he claims from the person to whom the account is transmitted. He shall annex to the account a notice of the place where the vouchers relating to the account may be seen, and he shall at all reasonable times and without charge allow the person from whom payment is claimed, or any agent of such person, to inspect and take copies of the vouchers.

The returning officer shall not be entitled to any charges which are not duly included in his account.

If the person from whom payment is claimed objects to any part of the claim, he may, at any time within fourteen days from the time when the account is transmitted to him apply to the Court as defined in this section for a taxation of the account, and the Court shall have jurisdiction to tax the account in such manner and at such time and place as the Court thinks fit, and finally to determine the amount payable to the returning officer

The ac-
counts of a
returning
officer may
be taxed.

(a) S. 32 (2) of 46 & 47 Vict. c. 51 (pp. 58, 60), provides that this account shall in all cases be sent to the election agent of every candidate.

Append. and to give and enforce judgment for the same as if such judgment were a judgment in an action in such court, and with or without costs at the discretion of the Court.

The Court for the purposes of this Act shall be in the city of London the Lord Mayor's Court, and elsewhere in England the County Court, and in Ireland the Civil Bill Court, having jurisdiction at the place of nomination for the election to which the proceedings relate.

The Court may depute any of its powers or duties under this Act to the registrar or other principal officer of the Court.

Nothing in this section shall apply to the charge of the returning officer for publication of accounts of election expenses.

**Claims
against a
returning
officer.**

5. Every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer for the purposes of an election, except for publication of accounts of election expenses, shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

Where application is made for taxation of the accounts of a returning officer, he may apply to the Court as defined in this Act to examine any claim transmitted to him by any person in pursuance of this section, and the Court after notice given to such person, and after hearing him, and any evidence tendered by him, may allow or disallow, or reduce the claim objected to, with or without costs, and the determination of the Court shall be final for all purposes, and as against all persons.

**Use of ballot
boxes, &c.,
provided for
municipal
elections.**

6. In any case to which the fourteenth section of the Ballot Act, 1872, is applicable (a), it shall be the duty of the returning officer, so far as is practicable, to make use of ballot boxes, fittings, and compartments provided for municipal or school-board elections, and the Court, upon taxation of his accounts, shall have regard to the provisions of this section.

(a) *I.e.*, Where a parliamentary borough and municipal borough occupy the whole or any part of the same area (35 & 36 Vict. c. 53, s. 14).

7. There shall be added to every notice of election to be published under the provisions of the Ballot Act, 1872, the notification contained in the second schedule to this Act with respect to claims against returning officers.

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Notices to
be given by
returning
officers.

8. Nothing in this Act shall apply to an election for any university or combination of universities.

Saving of
the uni-
versities.

9. This Act shall come into operation on the first day of October one thousand eight hundred and seventy-five, and continue in force until the thirty-first day of December one thousand eight hundred and eighty, and no longer, unless Parliament shall otherwise determine (a).

Commence-
ment and
duration
of Act.

10. This Act may be cited for all purposes as the "Parliamentary Elections (Returning Officers) Act, 1875." **Short title.**

11. This Act shall not apply to Scotland (b).

Not to
apply to
Scotland.

(a) This Act is now continued annually.

(b) This Act is replaced in Scotland by the Parliamentary Elections (Returning Officers), Expenses (Scotland) Act, 1878 (41 & 42 Vict. c. 41), which, however, only contains provisions as to tender of security and use of ballot boxes, &c., identical with ss. 3, 6, 8, and Schedule III. of the English Act.

Append.

SCHEMES.

FIRST SCHEME.

CHARGES OF RETURNING OFFICERS.

The following are the maximum charges to be made by the returning officer, but the charges are in no case to exceed the sums actually and necessarily paid or payable.

PART I.—COUNTIES AND DISTRICT OR CONTRIBUTORY BOROUGHS.

This Part of this Schedule applies to an election for a county, or for either of the boroughs of Aylesbury, Cricklade, Monmouth, East Retford, Stroud, and New Shoreham, or for any borough or burgh consisting of a combination of separate boroughs, burghs, or towns.

	£ s. d.
For preparing and publishing the notice of election	2 2 0
For preparing and supplying the nomination papers	1 1 0
For travelling to and from the place of nomination, or of declaring the poll at a contested election, per mile	0 1 0
For hire or necessary fitting up of rooms or buildings by or for use of such rooms or buildings	The necessary expenses not exceeding at any one polling station the charge for constructing and fitting a polling station
For constructing a polling station, with its fittings and compartments, in England	7 7 0
And in Ireland the sum or sums payable under the provisions of the 13th and 14th Victoria, chap. 68, and 35th & 36th Victoria, chap. 33 (a).	
In Ireland the returning officer shall use a court house where one is available as a polling station, and his maximum charge for using and fitting the	
(a) Not exceeding £3 if in a public building, or £5 if not in a public building (13 & 14 Vict. c. 68, s. 19, Ballot Act, s. 17 (4)).	

Append.	<i>£ s. d.</i>
same shall in no case exceed three pounds three shillings.	1 1 0
For each ballot box required to be purchased	0 5 0
For the use of each ballot box, when hired	0 10 0
For stationery at each polling station	1 10 0
For printing and providing ballot papers, per thousand	0 10 0
For each stamping instrument	The sums payable by statute for the necessary copies.
For copies of the register	3 3 0
For each presiding officer	1 1 0
For one clerk at each polling station where not more than 500 voters are assigned to such station	1 1 0
For an additional clerk at a polling station for every number of 500 voters, or fraction thereof beyond the first 500 assigned to such polling station	1 1 0
For every person employed in counting votes, not exceeding six such persons where the number of registered electors does not exceed 3,000, and one for every additional 2,000 electors	1 1 0
For making the return to the clerk of the Crown	1 1 0
For the preparation and publication of notices (other than the notice of election).	Not exceeding for the whole of such notices 20 <i>l.</i> , and 1 <i>l.</i> for every additional 1,000 electors above 3,000.
For conveyance of ballot boxes from the polling stations to the place where the ballot papers are to be counted, per mile	0 1 0
For professional and other assistance in and about the conduct of the election.	In a contested election, not exceeding 25 <i>l.</i> , and an additional 3 <i>l.</i> for every 1,000 registered electors or fraction thereof above 3,000 and up to 10,000, and 2 <i>l.</i> for every 1,000 or fraction thereof above 10,000. In

Append.

For travelling expenses of presiding officers and clerks, per mile	an uncontested election, one fifth of the above sums. £ s. d. 0 1 0
For services and expenses in relation to receiving and publishing accounts of election expenses, in respect of each candidate.	2 2 0
For all other expenses	In a contested election, not exceeding 10 <i>l.</i> , and an additional 1 <i>l.</i> for every 1,000 electors or fraction thereof above 1,000. In an uncontested election, nil.

NOTE.—Travelling expenses are not allowed in the case of any person unless for distances exceeding two miles from the place at which he resides.

PART II.—BOROUGHS.

This Part of the Schedule applies to all boroughs not included in Part I. of this Schedule.

For preparing and publishing the notice of election	£ s. d. 2 2 0
For preparing and supplying the nomination papers	1 1 0
For hire or necessary fitting up of rooms or buildings for polling, or damage or expenses by or for use of such rooms or buildings.	The necessary expenses, not exceeding at any one polling station the charge for constructing and fitting a polling station.
In England, for constructing a polling station, with its fittings and compartments, not exceeding two in number	7 7 0
For each compartment required to be constructed, when more than two be used	1 1 0

	<u>£ s. d.</u>	<u>Append.</u>
For the use of each compartment hired, when more than two are used	0 5 0	
And in Ireland, in lieu of the charges payable in respect of the last foregoing three services, the sum or sums payable under the provisions of 13th and 14th Victoria, chap. 68, and 35th and 36th Victoria, chap. 33 (a).		
For each ballot box required to be purchased	1 1 0	
For the use of each ballot box, when hired	0 5 0	
For stationery at each polling station	0 10 0	
For printing and providing ballot papers, per thousand	1 10 0	
For each stamping instrument	0 10 0	
For copies of the register	3 3 0	The sums payable by statute for the necessary copies.
For each presiding officer	1 1 0	
For one clerk at each polling station where not more than 500 voters are assigned to such station	1 1 0	
For an additional clerk at a polling station for every number of 500 voters, or fraction thereof beyond the first 500 assigned to such station	1 1 0	
For every person employed in counting votes, not exceeding six such persons where the number of registered electors does not exceed 3,000, and one for every additional 2,000 electors	1 1 0	
For making the return to the clerk of the Crown	1 1 0	
For the preparation and publication of notices (other than the notice of election)	Not exceeding for the whole of such notices 10/-, and 1/- for every additional 1,000 electors above 1,000.	
For professional and other assistance in and about the conduct of the election	In a contested election, not exceeding 20/-, an additional 2/- for every 1,000 registered electors or fraction thereof	

(a) Not exceeding £3 if in a public building, or £5 if not in a public building 13 & 14 Vict. c. 68, s. 19, Ballot Act, s. 17 (4).

Append.

	above 1,000 and up to 10,000, and 1 <i>l.</i> additional for every 1,000 or fraction thereof above 10,000. In an uncontested election one fifth of the above sum.
For services and expenses in relation to receiving and publishing accounts of election expenses, in respect of each candidate	<i>£ s. d.</i> 1 1 0
For all other expenses	Not exceeding 10 <i>l.</i> , and an additional 1 <i>l.</i> for every 1,000 electors above the first 1,000.

NOTE TO PARTS I. and II. of SCHEDULE I.

The above sums are the aggregate charges, the amount of which is to be apportioned among the several candidates or other persons liable for the same.

SECOND SCHEDULE.

NOTIFICATION to be added to the NOTICE of ELECTION.

Take notice, that by the Parliamentary Elections (Returning Officers) Act, 1875, it is provided that every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer, for the purposes of an election (except for publications of account of election expenses), shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

THIRD SCHEDULE.

Append.MAXIMUM Amount of SECURITY which may be required by a
RETURNING OFFICER.

	County or District of Contribu- tory Borough.	Borough.
	£	£
Where the registered electors do not exceed 1,000	150	100
Where the registered electors exceed 1,000 but do not exceed 2,000	200	150
Where the registered electors exceed 2,000 but do not exceed 4,000	275	200
Where the registered electors exceed 4,000, but do not exceed 7,000	400	250
Where the registered electors exceed 7,000 but do not exceed 10,000	550	300
Where the registered electors exceed 10,000 but do not exceed 15,000	700	450
Where the registered electors exceed 15,000 but do not exceed 20,000	800	500
Where the registered electors exceed 20,000 but do not exceed 30,000	900	600
Where the registered electors exceed 30,000	1,000	700

If at the end of the two hours appointed for the election, not more candidates stand nominated than there are vacancies to be filled up, the maximum amount which may be required is one-fifth of the maximum according to the above scale.

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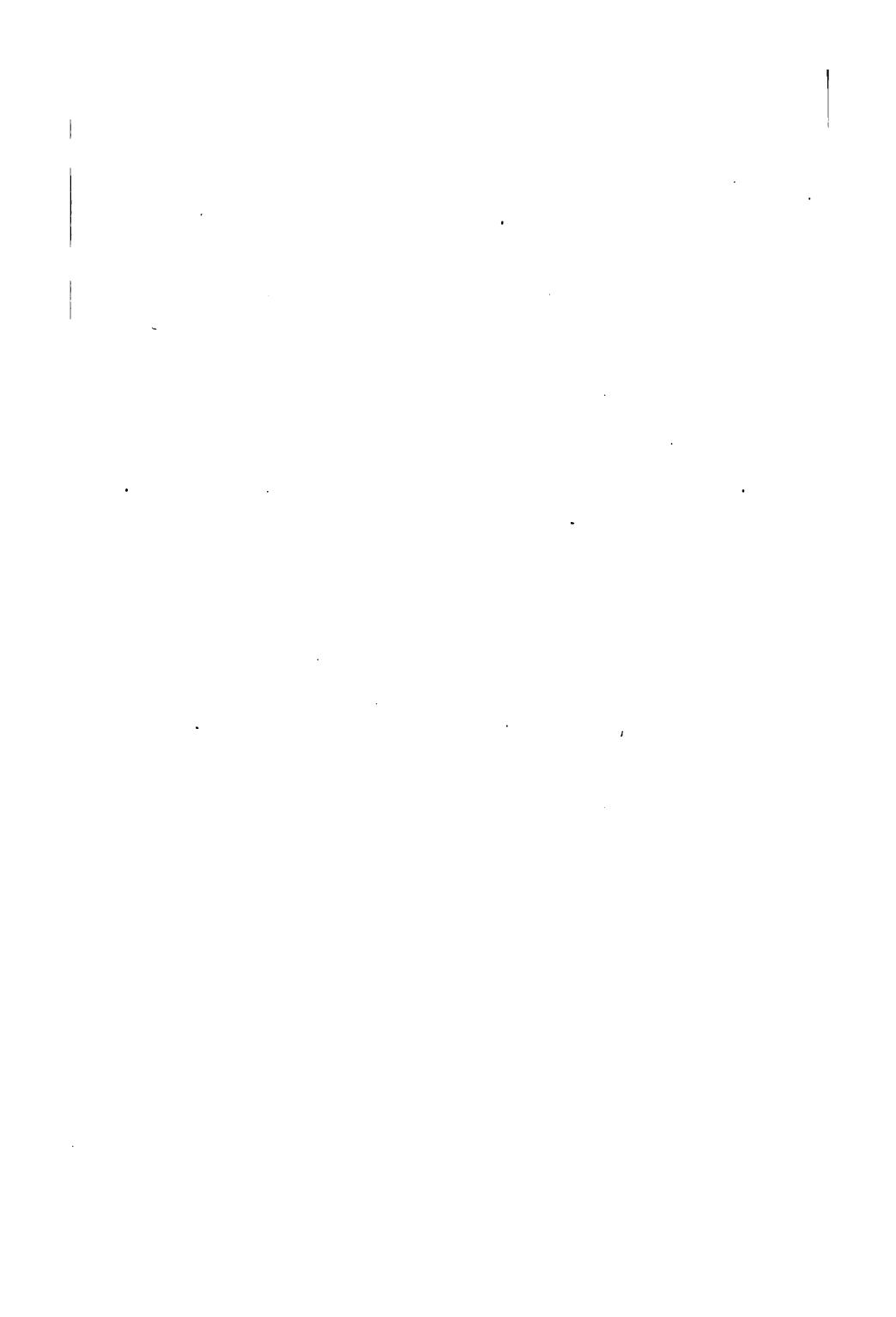
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